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THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES

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(16,741.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 206.

STERLING R. COCKRILL, AS RECEIVER OF THE FIRST
NATIONAL BANK OF LITTLE ROCK, ARKANSAS,
PLAINTIFF IN ERROR,

vs.

THE UNITED STATES NATIONAL BANK OF NEW YORK.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE EIGHTH CIRCUIT.

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1 Pleas and proceedings in the United States circuit court of appeals for the eighth circuit, at the May term, 1897, of said court, begun and held at the United States court-house, in the city of St. Paul, Minnesota, on the third day of May, A. D. 1897, before the Honorable Walter H. Sanborn and Honorable Amos M. Thayer, circuit judges, and Honorable John A. Riner, district judge.

Attest :

[Seal United States Circuit Court of Appeals, Eighth Circuit.]

JOHN D. JORDAN,
Clerk U. S. Circuit Court of Appeals, Eighth Circuit.

Be it remembered that heretofore, to wit, on the eleventh day of August, A. D. 1897, a transcript of record, pursuant to a writ of error directed to the circuit court of the United States for the eastern district of Arkansas, was filed in the office of the clerk of the United States circuit court of appeals for the eighth circuit, in the case of Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, plaintiff in error, vs. United States National Bank, defendant in error; which said transcript of record is in the words and figures following, to wit :

2 UNITED STATES OF AMERICA, ss :

The President of the United States to the honorable the judges of the circuit court of the United States for the western division of the eastern district of Arkansas, Greeting :

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, at the April term, 1897, thereof, between United States National Bank, plaintiff, and Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Ark., defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States circuit court of appeals for the eighth circuit, together with this writ, so that you have the said record and proceedings aforesaid at the city of St. Louis, Missouri, and filed in the office of the clerk of the United States circuit court of appeals for the eighth circuit, on or before the 16th day of August, 1897, to the end that, the record and proceedings aforesaid being inspected, the United States circuit court of appeals may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 19th day of June, in the year of our Lord one thousand eight hundred and ninety-seven.

Issued at office, in the city of Little Rock, with the seal of the circuit court of the United States for the western division of the eastern district of Arkansas, dated as aforesaid.

RALPH L. GOODRICH,
Clerk Circuit Court United States, Western Division
of the Eastern District of Arkansas.

3 Allowed by—

JNO. A. WILLIAMS, Judge.

Service acknowledged this 19th June, 1897.

RATCLIFFE & FLETCHER,
Att'ys for Plaintiff.

Return to Writ.

UNITED STATES OF AMERICA, } ss :
Western Division of the Eastern District of Arkansas, }

In obedience to the command of the within writ I herewith transmit to the United States circuit court of appeals a duly certified transcript of the record and proceedings in the within-entitled case, with all things concerning the same.

In witness whereof I hereto subscribe my name and
[SEAL.] affix the seal of said circuit court, at office, in the city of Little Rock, this 8th day of July, A. D. 1897.

RALPH L. GOODRICH,
Clerk of said Court.

Endorsed : No. —. United States circuit court, western division of the eastern district of Arkansas. — vs. —. Writ of error to the circuit court of the United States for the western division of the eastern district of Arkansas. Filed 19 day of June, 1897. Ralph L. Goodrich, clerk.

4 Be it remembered that on the 18th day of October, 1893, came into the office of the clerk of the circuit court of the United States for the western division of the eastern district of Arkansas, United States National Bank of New York, by Ratcliffe and Fletcher, Esqrs, its attorneys, and filed therein its complaint against The First National Bank of Little Rock, Arkansas, *et al.*, which complaint is as follows :

United States Circuit Court, Western Division, Eastern (—) of Arkansas.

UNITED STATES NATIONAL BANK OF CITY OF NEW YORK	}
vs.	
FIRST NATIONAL BANK OF LITTLE ROCK and STERLING R. Cockrill, Receiver.	

The said plaintiff, United States National Bank, states that it is a corporation duly incorporated under the laws of the United States and resident, located and doing business in the city of New York,

State of New York, that the defendant First National Bank of Little Rock is a corporation organized under the laws of the United States, resident and located and lately doing business in the city of Little Rock in the western division of the eastern district of Arkansas. Said defendant bank has become insolvent, and the defendant S. R. Cockrill, who is a citizen of Arkansas, and resident in said city of Little Rock, has been appointed receiver of said bank.

On December 7th, 1892, the City Electric Street Railway Company, a corporation organized and doing business under the laws of Arkansas, in the city of Little Rock, Arkansas, executed and delivered to G. R. Brown and H. G. Allis, citizens of the State of Missouri, its three promissory notes each for five thousand dollars, payable four months after date, with interest at the rate of ten per cent. per annum from maturity until paid, said Brown and Allis afterwards indorsed and delivered said notes to the defendant First National Bank, and said bank before maturity and for a valuable consideration indorsed, rediscounted and delivered said notes to plaintiff.

That on December 7th, 1892, the McCarthy and Joyce Company, a corporation resident in the city of Little Rock, Pulaski county, Arkansas, and organized and doing business under the laws of Arkansas, executed and delivered to James Joyce, a citizen of the State of Missouri, its two promissory notes each for five thousand dollars, payable to his order at four and five months respectively after date with interest from maturity at the rate of ten per cent. per annum until paid, said Joyce afterwards indorsed said notes to the defendant First National Bank and said bank before maturity

5 and for a valuable consideration indorsed, rediscounted and delivered said notes to plaintiff, said notes were each at maturity presented at the First national bank in Little Rock, Arkansas, for payment, and payment being refused, they were each duly protested for non-payment, the fees for which amounting to twenty-five dollars were paid by plaintiff. Copies of said notes, with the indorsements thereon, are hereto attached marked 1 to 5 inclusive, and made part hereof, no part of said notes has been paid, and the same have been presented to the receiver of said bank for allowance, which he has refused to do.

Wherefore plaintiff prays judgment for its debt and for all other relief.

RATCLIFFE AND FLETCHER,
For Plaintiff.

The notes and indorsements appear in the bill of exceptions, at pages 13-18 inclusive.

UNITED STATES OF AMERICA, }
Western Division of the Eastern District of Arkansas. }

Be it remembered, that at a circuit court of the United States of America, in and for the western division of the eastern district of Arkansas, begun and holden on Monday, the 23rd day of October,

anno Domini, one thousand eight hundred and ninety-three, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable John A. Williams, district judge presiding and holding said court, the following proceedings were had, to wit:

On October 25, 1893, as follows:

UNITED STATES NATIONAL BANK OF NEW YORK }
 vs.
 FIRST NATIONAL BANK OF LITTLE ROCK ET AL. }

Comes the defendant Sterling R. Cockrill, receiver of the First National Bank of Little Rock, by Sanders and Cockrill, Esqrs., his attorneys, and files herein his answer.

Which answer is as follows:

The defendant, Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, for answer to the complaint denies that either of the notes described in the plaintiff's complaint was ever indorsed and delivered to the First national bank; he denies that either of said notes was ever the property of or in the possession of said bank; and denies that the said bank ever indorsed or delivered either of said notes to the plaintiff; he
 6 denies that said bank ever received any consideration from said plaintiff for any indorsement or delivery of said notes to it.

Wherefore he prays judgment.

GEO. H. SANDERS AND
 S. R. COCKRILL,
Attorneys for Receiver.

Filed October 25, 1893.

RALPH L. GOODRICH, *Clerk.*

UNITED STATES OF AMERICA }
Western Division of the Eastern District of Arkansas. }

Be it remembered, that at a circuit court of the United States of America, in and for the western division of the eastern district of Arkansas, begun and holden on Monday, the ninth day of April, anno Domini, one thousand eight hundred and ninety-four at the United States court-room, in the city of Little Rock, Arkansas, the Honorable John A. Williams, district judge, presiding and holding said court, the following proceedings were had, to wit:

On June 6th, 1894, as follows:

Comes S. R. Cockrill, as receiver of the First national bank and files herein his amendment to answer.

Which amendment to answer is as follows:

The receiver for the First National Bank of Little Rock, for amendment to his answer, says that at the time of the maturity of each of the notes sued on herein, the First National Bank of Little Rock had ceased to do business, and was carrying on no business at the banking-house where said notes were payable; that the residence and places of business of the makers of said notes were in the city of Little Rock, but that no demand was made upon either

of said makers for the payment thereof; and that no notice of dishonor was given to any person authorized to receive notice on behalf of the said First national bank at the maturity of said notes. Defendant denies that either of the corporations who appear as makers of said notes ever authorized the execution thereof.

For a further answer, defendant alleges that the capital stock of the plaintiff bank herein was \$500,000; that by the act of Congress under which said bank was incorporated it was prohibited from loaning to any person an amount of money exceeding ten per cent. of said capital stock; that if the notes sued on herein created an indebtedness against the First National Bank of Little Rock, the amount borrowed by said First National Bank of Little Rock from the plaintiff at the time the notes sued on were delivered to the plaintiff exceeded the sum of \$50,000, that the directors of plaintiff bank knowingly permitted its officers to make such excessive loan; that the First national bank was not the owner of said paper at any time that the same was indorsed for accommodation of H. G. Allis, that the First national bank received no benefit therefrom.

Defendant alleges that at the date of the suspension of the First national bank the United States national bank was indebted to it in the sum of \$467.86, that sum then being on deposit in the said United States national bank to the credit of the First National Bank of Little Rock; and that the same has never been paid.

Wherefore, defendant prays that he be discharged from all liability upon the notes sued on herein, and that he have judgment against the plaintiff for the said sum of \$467.86, and interest from the 1st day of February, 1893.

S. R. COCKRILL,
ASHLEY COCKRILL,
For Defendant.

Filed June 6, 1894.

RALPH L. GOODRICH, *Clerk.*

Which answer is as follows:

8 Said plaintiff for answer to the cross-complaint of the defendant S. R. Cockrill, receiver, says, it is not true that it is indebted to said receiver or to the said First national bank in the sum of \$467.86 or in any other sum whatever.

That at the time said First national bank failed it was indebted to plaintiff in a large amount, to wit, the notes sued upon herein, and plaintiff applied said \$467.86 as a credit upon said indebtedness.

Wherefore plaintiff prays that said cross-complaint be dismissed.

RATCLIFFE AND FLETCHER,
For Plaintiff.

Which demurrer is as follows:

The plaintiff demurs to the amendment to the answer of S. R. Cockrill, receiver herein.

1. Because presentation of the notes sued upon for payment was

not required to be made at any place other than that mentioned in said notes.

2. Because it is not alleged that plaintiff had notice of the alleged want of authority of the officers of the corporations, who made said notes, to execute the same. Nor can the defendant receiver take advantage of any such want of authority.

3. Because plaintiff is not prohibited by law from discounting notes beyond ten per cent. of its capital stock, and if it is, that fact cannot be urged as a defense to this action.

4. Because said amendment to the answer does not state facts sufficient to constitute a defense.

5. Because it is not alleged that plaintiff had any notice that said notes were endorsed for accommodation of H. G. Allis.

6. Plaintiff also demurs to the cross-complaint of defendant, because the same does not state facts sufficient to constitute a cause of action.

RATCLIFFE AND FLETCHER,
Attorneys for Plaintiff.

Filed June 8, 1894.

RALPH L. GOODRICH, *Clerk.*

9

UNITED STATES OF AMERICA, }
Western Division of the Eastern District of Arkansas. }

Be it remembered, that at a circuit court of the United States of America, in and for the western division of the eastern district of Arkansas, begun and holden on Monday, the 28th day of October anno Domini one thousand eight hundred and ninety-five at the United States court-room, in the city of Little Rock, Arkansas, the Honorable John A. Williams, district judge presiding and holding said court, the following proceedings were had, to wit:

On February 7th, 1896, as follows:

UNITED STATES NATIONAL BANK }
vs. }
FIRST NATIONAL BANK OF LITTLE ROCK. }

Comes the defendant by S. R. Cockrill and Ashley Cockrill, Esqrs., its attorneys, and by leave of the court files herein its amendment to answer.

Which amendment is as follows:

Amendment to Answer.

In the United States Circuit Court, Western Division of the Eastern District of Arkansas.

UNITED STATES NATIONAL BANK }
vs. }
FIRST NATIONAL BANK ET AL. }

By way of amendment to the answer heretofore filed herein defendants allege that the name of the defendant bank was indorsed

on said notes by H. G. Allis for his personal benefit without authority from said bank, that the said Allis, assuming to act for defendant bank, procured the plaintiff to advance or loan upon said notes a large sum of money which he appropriated to his own use; that said Allis had no authority from said bank to negotiate said loan or to act for it in any way in said transaction; if said transaction created an indebtedness against the defendant bank, then the total liability of said defendant bank to the plaintiff by virtue thereof, exceeded one-tenth of the plaintiff's capital stock, and the total liability of the defendant bank thereby exceeded the amount of its capital stock actually paid in; that the plaintiff knowingly permitted its officers to make such excessive loan under the circumstances aforesaid; that the transaction aforesaid was not in the usual course of banking business which either the plaintiff
10 or the defendant bank was authorized to carry on, that the plaintiff is not an innocent holder of either of said notes; that the defendant bank received no benefit from said transaction; that it had no knowledge thereof until a few days prior to its suspension; that no notice of the dishonor of said notes was ever given to the defendant bank.

Wherefore it prays as in its other answers herein.

S. R. COCKRILL,
ASHLEY COCKRILL,

For Defendant.

Filed February 7th, 1896.

RALPH L. GOODRICH, *Clerk.*

11 UNITED STATES OF AMERICA, }
Western Division of the Eastern District of Arkansas. }

Be it remembered that at a circuit court of the United States of America in and for the western division of the eastern district of Arkansas, begun and holden on Monday, the 12th day of April, anno Domini one thousand eight hundred and ninety-seven, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable John A. Williams, district judge, presiding and holding said court, the following proceedings were had, to wit:

On June 18, 1897, as follows:

UNITED STATES NATIONAL BANK

vs.

STERLING R. COCKRILL, as Receiver of the First National Bank
of Little Rock, Arkansas. }

Comes the plaintiff, by Ratcliffe and Fletcher, Esqrs., its attorneys, and comes the defendant, by Cockrill and Cockrill, Esqrs., his attorneys, and, both parties announcing themselves ready for trial, a jury came, to wit, Green Tomsun and eleven others, good and lawful men of the district, who were duly tried, empannelled, and sworn well and truly to try the issues joined between the United States National Bank and Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, and a true verdict

give according to the law and the evidence; and the jury, having heard all the evidence and having been directed by the court to return a verdict in favor of the plaintiff against the said receiver, return the following verdict, viz:

"We, the jury, find the issues in favor of the United States National Bank against Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, and assess the plaintiff's damages at twenty-four thousand five hundred and thirty-two dollars and fourteen cents (\$24,532.14)."

It is therefore considered, ordered, and adjudged that the United States national bank have and recover of Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, the sum of twenty-four thousand five hundred and thirty-two dollars and fourteen cents (\$24,532.14), together with the costs; that said claim be allowed by said receiver, to be by him paid in accordance with the acts of Congress in that behalf provided.

(Signed)

JNO. A. WILLIAMS,
U. S. Dist. Judge.

On June 19th, 1897, as follows:

UNITED STATES NATIONAL BANK OF NEW YORK }
vs.
S. R. COCKRILL, Receiver, &c. }

Comes the defendant, by S. R. Cockrill and Ashley Cockrill, Esqrs., his attorneys, and files herein his bill of exceptions, which is signed by the court; also prayer for writ of error and assignment of errors; and the writ of error being allowed by the court the same is issued and filed herein, together with citation, which is signed by the court. It appearing that said Cockrill is receiver by virtue of appointment of the Comptroller of the Currency, in accordance with the act of Congress, it is ordered that he prosecute his *suit* of error without bond.

Which bill of exceptions is as follows:

Bill of Exceptions.

UNITED STATES NATIONAL BANK OF NEW YORK }
vs.
S. R. COCKRILL, Receiver. }

This cause coming on for trial this 18th day of June, 1897, the plaintiff, to sustain the issues on its part, introduced the following testimony, to wit:

Counsel for plaintiff offered to introduce in evidence the notes sued on, copies of which are attached to the complaint, with proofs of protest. Counsel for the defendant object to the introduction of the notes, as they are not shown to have been the property of the First national bank or to have been indorsed by any one authorized to indorse them for the First national bank.

Subject to these objections, the court permitted the notes and proofs of protest to be introduced. Attorneys for defendant withdrew all objections to the notice of protest and abandoned the defense upon that ground. Defendant at the time excepted to the court's ruling. Said notes, with the endorsements thereon, are as follows:

\$5,000. 34131. LITTLE ROCK, ARK., Dec. 7th, 1892.

Four months after date we, or either of us, promise to pay to the order of G. R. Brown & H. G. Allis five thousand dollars, for value received, negotiable and payable, without defalcation or discount, at the First National Bank of Little Rock, Arkansas, with interest from maturity, at the rate of ten per cent. per annum, until paid.

CITY ELECTRIC ST. R'Y CO.
H. G. BRADFORD, *P't.*

W. H. SUTTON, *Sec'y.*

No. A, 73485. Due Apr. 7-10, '93.

The following indorsements appear on the above note: Geo. R. Brown, H. G. Allis, First National Bank, Little Rock, Ark.; H. G. Allis, *p't.* Pay W. D. Hearn, cashier, or order, for collection. H. G. Hopkins, cashier. Protested for non-payment April 10, 1893. A. S. Reaves, notary public. Fees, \$4.94. Protested.

\$5,000. 34130. LITTLE ROCK, ARK., Dec. 7th, 1892.

Four months after date we, or either of us, promise to pay to the order of Geo. R. Brown & H. G. Allis five thousand dollars, for value received, at the First National Bank of Little Rock, Arkansas, with interest from maturity, at the rate of ten per cent. per annum, until paid.

CITY ELECTRIC ST. R'Y CO.,
By H. W. BRADFORD, *P't.*

W. A. SUTTON, *Sec'y.*

No. A, 73484. Due Apr. 7-10, '93.

14 The following indorsements appear on the above note: Geo. R. Brown, H. G. Allis, First National Bank of Little Rock, Ark.; H. G. Allis, *p't.* Pay W. D. Hearn, cashier, or order, for collection. H. G. Hopkins, cashier. Protested for non-payment April 10, 1893. A. S. Reaves, notary public. Fees, \$4.90. Protested.

\$5,000. 34129. LITTLE ROCK, ARK., Dec. 7, 1892.

Four months after date we, or either of us, promise to pay to the order of G. R. Brown & H. G. Allis five thousand dollars, for value received, negotiable and payable, without defalcation or discount, at the First National Bank of Little Rock, Arkansas, with interest from maturity, at the rate of ten per cent. per annum, until paid.

CITY ELECTRIC ST. R'Y CO.,
By H. G. BRADFORD, *P't.*

W. H. SUTTON, *Sec'y.*

No. A, 73483. Due Apr. 7-10, '93.

The following indorsements appear on the above note: Geo. R. Brown, H. G. Allis, First National Bank, Little Rock, Ark.; H. G. Allis, p't. Pay W. D. Hearn, cashier, or order, for collection. H. G. Hopkins, cashier. Protested for non-payment April 10, 1893. A. S. Reaves, notary public. Fees, \$4.90. Protested.

\$5,000. 34128. LITTLE ROCK, ARK., Dec. 7, 1892.

Four months after date we, or either of us, promise to pay to the order of James Joyce five thousand dollars, for value received, negotiable and payable, without defalcation or discount, at the First National Bank of Little Rock, Arkansas, with interest from maturity, at the rate of ten per cent. per annum, until paid.

McCARTHY & JOYCE CO.
GEO. MANDLEBAUM,
Sec'y & Treas.

A, 73477.

No. 2. Due Apr'l 7-10, '93.

The following indorsements appear on the above note: James Joyce, H. G. Allis, First National Bank, Little Rock, Ark.;
15 H. G. Allis, p't. Pay W. D. Hearn, cashier, or order, for collection. H. G. Hopkins, cashier. Protested for non-payment April 10, 1893. A. S. Reaves, notary public. Fees, \$4.90. Protested.

\$5,000. 34693. LITTLE ROCK, ARK., Dec. 7th, 1892.

Five months after date we, or either of us, promise to pay to the order of James Joyce five thousand dollars, for value received, negotiable and payable, without defalcation or discount, at the First National Bank of Little Rock, Arkansas, with interest from maturity, at the rate of ten per cent. per annum, until paid.

McCARTHY & JOYCE CO.
GEO. MANDLEBAUM,
Sec'y & Treas.

A, 73476.

No. 3. Due May 7-10, '93.

The following indorsements appear on the above note: James Joyce, H. G. Allis, First National Bank, Little Rock, Ark.; H. G. Allis, p't. Pay W. D. Hearn, cashier, or order, for collection. H. G. Hopkins, cashier. Protested for non-payment May 10, 1893. A. S. Reaves, notary public. Fees, \$4.94. Protested.

16 Counsel for plaintiff read the depositions of witnesses, as follows:

Deposition of Henry C. Hopkins.

Ques. 1. State your name, reside- and occupation.

Ans. Henry C. Hopkins, New York city; cashier United States national bank, New York.

2. What official relation do you hold with The United States

National Bank of New York, plaintiff in this case, and what official relation did you hold with the said bank during the year 1892?

Ans. Cashier of the plaintiff bank, and held that position during the year 1892.

3. Give a detailed account of the business transactions between the United States national bank and the First National Bank of Little Rock during the year of 1892, commencing with the first negotiations between said banks and up to the time when they ceased to do business with each other, and attach to your deposition (or if attached to other depositions, refer to same) any letters, telegrams or other documents or the copies thereof, when you have not the originals, relating to the business between said banks and especially those which relate to the notes in controversy in this case. Explain fully.

Ans. Our business relations with the First National Bank of Little Rock, Arkansas, began by our writing them under date of June 21st, 1892, inviting them to do business with us as shown by Exhibit 1, annexed hereto, in which we offered to give them accommodation in the form of rediscounts; and in reply to

17 which, on June 24th, 1892, the First National Bank of Little Rock, Arkansas, sent us about \$50,000 of their bills discounted, as shown by their letter of June 24th, 1892, Exhibit 2. They had neglected to indorse these notes, and we returned them for that purpose, as shown by telegram and letter of June 27th, 1892, Exhibits 3 and 4; after having first discounted them in anticipation of having the notes duly indorsed by the First National Bank of Little Rock, Arkansas. Also on June 27th, 1892—as per Exhibit 5—we advised them of proceeds of these notes, which were discounted in anticipation of getting said bank's indorsement. We received these notes back from them, properly indorsed, in their letter of July 1st, 1892, Exhibit 6; receipt of which we acknowledged July 6th, 1892, Exhibit 7. On July 6th, 1892, we offered to discount \$50,000 more for the First National Bank of Little Rock, Arkansas, as per telegram, Exhibit 8; which offer they accepted in their telegram—Exhibit 9—confirming same in their letter of July 9th, 1892—Exhibit 10—in which they enclosed sundry notes aggregating about \$50,000.00. Advice of proceeds of this discount is shown by our letter of July 13th, 1892, Exhibit 11. In this letter of advice, we call attention to some little irregularities, the correction of which is shown in our subsequent letter of July 21st, 1892, Exhibit 12.

On July 26th, 1892, we offered them \$50,000.00 more rediscounts as per Exhibit 13. In their letter of July 29th, 1892, they enclosed us a further batch of notes, aggregating about \$50,000.00, as shown by Exhibits 14 and 15. Advice of proceeds of this discount is shown by Exhibit 16.

On October 31st, 1892, they sent us their bills discounted for about \$24,000.00 for rediscount, as shown by Exhibit 17. We wired them that proceeds were at their credit on November 3rd, 1892, Exhibit 18, and gave them formal advice of the same, on the same date, Exhibit 19.

On November 25th, 1892, they asked for further discounts to the extent of \$25,000.00, Exhibit 20. This we promised to give in our letter of November 28th, 1892, Exhibit 21. In accordance therewith, they forwarded us the paper on December 13th, 1892, Exhibit 22; the formal advice of proceeds of which is shown by our letter of December 16th, 1892, Exhibit 23; and our telegram of December 17, 1892, Exhibit 24. One of these notes which we discounted was out of order and was returned in this letter (of December 16th, 1892) for corrections, and was reforwarded to us as shown by their letter of December 20th, 1892, Exhibit 25, and our acknowledgment, Exhibit 26.

On December 21st, 1892, the First National Bank of Little Rock, Arkansas, asked us to rediscount \$30,000.00 of country banks' paper secured by cotton, Exhibit 27. This we agreed to do, as shown by telegram and letter of December 21st, 1892, Exhibit 28, requesting them, in view of the panic in Wall street, to make their demands as light as possible, and inadvertently referring to the proposed rediscount as a "loan;" the proposition being, however, that we rediscount notes of the country correspondents of the First National Bank of Little Rock, Arkansas, to wit: the Bank of Batesville and the People's Exchange Bank of Russellville. This paper was subsequently sent us in their letter of December 21st, 1892—Exhibit 29—to wit, \$25,000.00 of the Bank of Batesville paper secured by cotton; and \$5,000.00 of People's Exchange Bank of Russellville paper.

These were rediscounted by us and *advice* of proceeds credited on December 27th, 1892, Exhibit 30.

During the period covered by this answer, we had the usual business transactions with the First National Bank of Little Rock, Arkansas; they sending us remittances for their credit almost daily, and continually checking on us, as shown by copy of account current herewith, Exhibit 77.

Subsequent to the discount given the First National Bank of Little Rock, on or about December 27th, 1892, there were no transactions between the banks about which any controversy has arisen and no special mention, therefore, is made regarding them. I further attach hereto letters and telegrams received from the First national bank and copies of our letters and telegrams in reply, Exhibits 31 to 65, inclusive, which shows the transactions carried on between the First national bank and ourselves. I further attach Exhibits 66 to 76 inclusive, which are copies of correspondence between the Treasury Department, the bank examiner, the receiver of the First National Bank of Little Rock, Arkansas, and ourselves.

4. Were any of the dealings between said banks other than such as take place between banks carrying on a legitimate banking business, in the usual course of business?

Ans. No.

5. Were the notes in controversy received and rediscounted by the United States national bank in any way other than in the usual course of business or different from any of the other notes redis-

counted by it for the First National Bank of Little Rock, Arkansas?

Ans. No.

6. Did the United States national bank have any notice or information whatever that the notes in controversy had not been regularly received by the First national bank and by it offered for rediscount in the usual course of business?

Ans. No.

7. Did the United States national bank have any notice or information that the notes in controversy were offered by the First National Bank of Little Rock for discount for the benefit of any person other than the First national bank or that any other person was interested in the proceeds of said notes?

Ans. No.

8. Did the United States national bank in its correspondence or dealings at any time treat with or recognize H. G. Allis and W. C. Denney or S. B. Smith in any other capacity than as representing the First national bank?

Ans. No; we never had any business transactions whatever with either H. G. Allis, W. C. Denney, or S. B. Smith, personally. Our transaction- were solely with the First national bank.

9. Were the correspondence and transactions carried on by H. G. Allis and W. C. Denney as you have disclosed, such as are usual for the president and cashier of a United States national bank to carry on and exercise?

Ans. Yes.

10. By whom were the proceeds of the various notes rediscounted as you have testified, withdrawn from the United States national bank?

Ans. First National Bank of Little Rock, Arkansas, in the regular course of business.

11. Was any part of the proceeds of any of the notes rediscounted by the First National Bank of Little Rock with the United States national bank, withdrawn by any person other than the regular officers of the First national bank and in the usual course of business?

Ans. No.

Cross-interrogatories.

No. 1. In the transaction of Aug. 1st, 1892, did H. G. Allis telegraph you for this loan? Please attach copy of his telegram.

Ans. No; on July 26th, 1892, we telegraphed the First National Bank of Little Rock, Arkansas, offering them \$50,000.00 more rediscounts, Exhibit 13; to which the First National Bank of Little Rock, Arkansas, replied under date of July 29th, 1892, accepting the offer and forwarding notes for rediscount, Exhibits 14 and 15.

No. 2. How much was H. G. Allis or the First national bank indebted to you (the U. S. nat'l bank) upon the consummation of this transaction?

20 Ans. H. G. Allis was not in any way indebted to us. We never had any personal transactions with him. Before the

proceeds of this discount, viz.: \$49,263.84, were placed to the credit of the First National Bank of Little Rock, Arkansas, it had a credit balance with us of \$7,672.11, and under discount \$101,164.81. After the discount was made and the proceeds \$49,263.84 placed to its credit, its balance with us was \$57,030.95, and its liabilities for bills rediscounted, \$151,199.17.

No. 3. What amount of credit did you extend to H. G. Allis or the First national bank at any one time?

Ans. As stated above, we never extended any credit to H. G. Allis. The largest amount of credit extended at any one time to the First National Bank of Little Rock, Arkansas, was \$151,199.17, on bills rediscounted, as stated above.

No. 4. How much was either indebted to the U. S. nat. bank when the transaction of August 1st was consummated?

Ans. I have answered this question in answering cross-interrogatory No. 2.

No. 5. How much including that transaction?

Ans. I have answered this question in answering cross-interrogatory No. 2.

No. 6. How much when the transactions of Nov. 4th, 1892, was consummated?

Ans. There was no discount given on November 4th, 1892, but there was on November 3rd, and before the proceeds of this discount, viz.: \$24,176.60 were placed to the credit of the First National Bank of Little Rock, Arkansas, on November 3rd, 1892, it had a credit balance with us of \$30,812.33, and under discount \$74,548.18.

No. 7. How much including that transaction?

Ans. After the discount on November 3rd was made and proceeds \$24,176.60 placed to its credit, its balance with us was \$44,978.93, and its liability on rediscounts \$98,961.23.

No. 8. How much was either H. G. Allis or the First national bank indebted to the U. S. national bank when the notes in suit were discounted by the U. S. national bank?

Ans. As stated above H. G. Allis was never indebted to the United States national bank in any sum whatever. Before the proceeds, \$31,871.27 were placed to the credit of the First National Bank of Little Rock, Arkansas, on December 16th, 1892, it had a credit balance with us of \$13,566.10; and under discount \$34,587.49. After the discount was made, December 16th, 1892, and proceeds \$31,871.27 were placed to the credit of the First National Bank of Little Rock, Arkansas, it had a credit balance with us of \$51,760.12; and under discount with us \$67,087.49.

No. 9. Who endorsed the notes purchased by the U. S. national on or about June 27th, 1892?

21 Ans. The question is asked in reference to notes "purchased" by the United States national bank on or about June 27th, 1892. These notes were discounted by us for the First National Bank of Little Rock, Arkansas, not purchased. Ten of the twelve notes in question were to the order of the First National Bank of Little Rock, Arkansas, and indorsed by them; and the

note of J. E. Briscoe \$1,100.40, due October 4th, 1892, was indorsed by the McCarthy & Joyce Company; and the note of the Keating Implement & Machine Company, \$1,778.67, due October 18th, 1892, was indorsed by the Thomas Manufacturing Company.

No. 10. Were they indorsed by the First National Bank of Little Rock, Ark., when they were first received by the U. S. national bank?

Ans. No; inadvertently they had been forwarded to us without the indorsement of the First National Bank of Little Rock, Arkansas. We received the twelve notes, aggregating \$50,728.00 from the First National Bank of Little Rock, Arkansas, in their letter of June 24th, 1892, Exhibit 2. We wired them that these notes were undorsed, but that we had discounted them, and were returning them for their indorsement, confirming our telegram to that effect, Exhibit 3; and returning the notes for indorsement—see our two letters of June 27th, 1892, Exhibits 4 and 5. These notes were subsequently returned us properly indorsed by the First National Bank of Little Rock, Arkansas, in their letter of July 1st, 1892, Exhibit 6.

No. 11. Were they indorsed by any other person at that time?

Ans. I have answered that question when I answered cross-interrogatory No. 9.

No. 12. If so, by whom?

Ans. I answered this question when I answered cross-interrogatory No. 9.

No. 13. When was the name of the First national bank indorsed on said notes and by whom?

Ans. I have already answered this question in answering cross-interrogatory No. 10. I know that the notes were properly indorsed by one of the duly authorized officers of the First national bank, but as the notes are not now in our possession, I am unable to state the name of the officer.

No. 14. Who indorsed the second batch of notes purchased by the U. S. national bank in July, 1892, aggregating about \$50,000.00?

Ans. The First National Bank of Little Rock, Arkansas (in addition to the indorsements previously made on the notes) indorsed the notes discounted (not purchased) by the United States national bank, July 13th, 1892, to wit:

22	Name.	Indorser.	Due.	Amount.
	Press Printing Co.....	Geo. R. Brown.....	Oct. 1st, '92	\$2,500.00
	Merchants' Transfer Co.	H. C. Bateman, Geo. McLean.	Oct. 7th, '92	2,000.00
	J. E. Briscoe.....	McCarthy & Joyce Co.....	Nov. 4th, '92	339.75
	Conway Scott.....	McCarthy & Joyce Co.....	Nov. 5th, '92	2,857.16
	Press Printing Co.....	Geo. R. Brown.....	Nov. 5th, '92	5,000.00
	McCarthy & Joyce Co...	James Joyce, George Mandelbaum.	Nov. 10th, '92	5,000.00
	Thomas Manfg. Co.	D. H. Thomas.....	Nov. 10th, '92	5,136.66
	S. A. Wiggins.....	McCarthy & Joyce Co.....	Dec. 4th, '92	3,160.00
	Draft on Talbot & Sons..	Thomas Mfg. Co.....	Dec. 4th, '92	2,146.85

No. 15. Were they indorsed by the First National Bank of Little Rock, Ark., when they were first received by the U. S. national bank?

Ans. Yes.

No. 16. Were they indorsed by any other person at the time?

Ans. I have answered that question in answering cross-interrogatory No. 14.

No. 17. When was the name of the First national bank indorsed on said notes and by whom?

Ans. I have already answered that question in answering cross-interrogatory No. 10. I know that the notes were properly indorsed by one of the duly authorized officers of the First national bank, but as the notes are not now in our possession I am unable to state the name of the officer.

No. 18. Have you attached the letter from H. G. Allis as president, to the United States national bank, dated July 29th, 1892, to your deposition? If not please attach the same.

Ans. Yes, the letter is attached—Exhibit- 14 and 15.

No. 19. Have you given a detailed statement of your transactions in full with the First national bank?

Ans. Yes, as shown by the statement of the account, Exhibit 77.

No. 20. What was the capital stock of the United States National Bank of New York in 1892?

Ans. \$500,000.00.

(Signed)

H. C. HOPKINS.

(Copy.)

NEW YORK, *June 21, 1892.*

W. C. Denney, Esq., cashier, Little Rock, Ark.

DEAR SIR: Can we not do business with your good bank? We should like to enroll your name upon our books, and we think the relation, if once established, could be made satisfactory to you in every particular; at any rate it would be our earnest endeavor to make it so.

We will give you 2% on your daily balances, granting you our best collection facilities, taking all your foreign items east of the Mississippi river and crediting them to your account immediately without charge.

If you will send on \$50,000 of your good, short-time, well-rated bills receivable we will be pleased to place them to your credit at 4%.

We are anxious to do business with your bank, having warmly and favorably known of it, and should be pleased to hear from you in reference to the above proposition.

Yours very truly,

J. W. HARRIMAN,
2nd Ass't Cashier.

This is the paper marked "1," referred to in the depositions of Henry C. Hopkins, James H. Parker, Joseph W. Harriman, and John J. McAuliffe hereto annexed.

HY. H. WHITMAN,
Notary Public.

H. C. Hopkins, J. H. Parker, J. W. Harriman, J. J. McAuliffe.

First National Bank of Little Rock, Ark.

JUNE 24, 1892.

Mr. Joseph W. Harriman, ass't cashier United States national bank,
New York city.

DEAR SIR: We have your favor of the 21st inst., inviting us to open an account with you.

The writer became acquainted with your president in the Southern Society of New York, and has long known him by reputation.

You have offered us a rate of interest that we have been endeavoring to get for a number of years past, but have never succeeded in doing so. This rate of interest will enable us to take care of our country banks in remunerative shape to both, and we feel, since you are the first to have the courage to offer four per cent. money in southern territory, that we should meet you in like spirit.

I inclose herein \$50,000 of our best short-time, well-rated bills, and also the signatures of our officers. Our average balance with you will be above \$10,000, and I trust the connection may be a long and satisfactory one.

After the maturity of this paper we shall have nothing to offer you in the way of rediscounts, except the paper of country banks, and I hope you can see your way clear to continue this 4 per cent. rate during our cotton season.

Kindly wire us proceeds to our credit, if the paper is satisfactory. The collaterals, recited in the notes enclosed, we hold subject to your order.

Yours very truly,

H. G. ALLIS, *President.*

City Electric Street R'y Co.	\$2,500.00, due Oct. 25th, '92.
" " " " "	2,500.00, due Oct. 25th, '92.
City Electric Street R'y Co.	2,500.00, due Oct. 25th, '92.
J. E. Biscoe.	1,140.00, due Oct. 4th, '92.
Ferguson Lumber Co.	2,000.00, due Oct. 18th, '92.
Keating Implement & Machine Co..	1,778.67, due Oct. 18th, '92.
Little Rock cotton mills	5,133.33, due Oct. 13th, '92.
H. M. Cooper and others.	4,715.60, due Oct. 5th, '92.
M. M. Cohn & Co.	6,000.00, due Sept. 17th, '92.
Gus Blass & Co.	10,000.00, due Sept. 29th, '92.
Ouachita Valley bank	10,000.00, due Aug. 13th, '92.

Total..... \$50,728.00

This is the paper marked "2 P," referred to in the depositions of Henry C. Hopkins, James H. Farker, Joseph W. Harriman and John J. McAuliffe hereto annexed.

HY. H. WHITMAN,
Notary Public.

H. C. Hopkins, J. H. Parker, J. W. Harriman, J. J. McAuliffe.

Telegram.

(Copy.)

NEW YORK, June 27, 1892.

First national bank, Little Rock, Ark. :

Notes in yours of twenty-fourth unindorsed—have discounted same and return to you tonight for indorsement.

UNITED STATES NATIONAL BANK.

Collect.

25 This is the paper marked "3," referred to in the depositions of Henry C. Hopkins, James H. Parker, Joseph W. Harriman and John J. McAuliffe hereto annexed.

HY. H. WHITMAN,
Notary Public.

EXHIBIT 4.

(Copy.)

NEW YORK, June 27, 1892.

H. G. Allis, Esq., cashier, Little Rock, Ark.

DEAR SIR: Your favor of the 24th, inclosing us notes amounting to \$50,000 for discount and credit to your account, duly received.

We welcome this relation with great pleasure, and we trust that the account will prove to be mutually satisfactory and beneficial in every particular, at any rate, it will be our earnest endeavor to make it so.

We note the remarks in your letter of the above date and appreciate that you endeavor at all times to get as low a rate as possible for your accommodations; but we do not wish to open this relation under a misapprehension or misunderstanding in any particular. Money being easy just at the time we wrote you on the 21st, we are now enabled to give you the proffered accommodation at 4%, but we do not wish to bind ourselves to this always; for you will readily understand that when the money market tightens our rates will be higher, but we will never charge you over 6%.

The notes which you forwarded us were unindorsed and we have wired you to this effect today. We have discounted the same and detailed statement will follow under separate cover, and have returned the notes to you for indorsement.

We will also see that you get our collections upon Little Rock and vicinity. Will you kindly send on a list of your par points? The signatures of your officers enclosed we have placed on file.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 5.

Copy. Registered.

NEW YORK, June 27th, 1892.

H. G. Allis, Esqr., president, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in favor of the 24th inst., and proceeds of same placed to your credit:

26 Ouachita Valley bank, due Aug. 13.	\$10,000,	disc't	\$52.22
M. M. Cohn & Co. <i>et al.</i> , due Sept. 7..	6,000,	disc't	48.00
Gus Blass & Co., due Sept. 29.....	10,000.00,	disc't	104.44
J. E. Biscoe, due Oct. 4.....	1,100.40,	disc't	12.10
Henry M. Cooper <i>et al.</i> , due Oct. 5.....	4,715.60,	disc't	52.40
Little Rock cotton mills, due Oct. 13.....	5,133.33,	disc't	61.60
Ferguson Lumber Co. <i>et al.</i> , due Oct. 18..	2,000,	disc't	25.11
Keating Implement and Machine Co., due Oct. 18.....	1,778.67,	disc't	22.33
Dickenson Hardware Co., due Oct. 25....	2,500.00,	disc't	33.33
City Electric St. R'y Co., due Oct. 25.....	2,500.00,	disc't	33.33
City Electric St. R'y Co., due Oct. 25.....	2,500.00,	disc't	33.33
Do. due Oct. 25....	2,500.00,	disc't	33.33

Amount of notes..... \$50,728.00

Less discount at 4 %..... 511.52

Proceeds. \$50,216.48

We enclose same herewith under registered cover for your indorsement and return to us.

Yours truly,

JNO. J. McAULIFFE,

Ass't Cashier.

EXHIBIT 6.

The First National Bank of Little Rock, Ark.

JULY 1, 1892.

United States national bank, New York city.

GENTLEMEN: Inclosed herein paper as follows, received this morning in your favor of the 27th, which we have properly indorsed and return:

Ouachita Valley bank, due Aug. 13th.....	\$10,000.00
M. M. Cohn & Co. <i>et al.</i> , due Sept. 17th.....	6,000.00
Gus Blass & Co., due Sept. 29th.....	10,000.00
J. E. Biscoe, due Oct. 4th.....	1,100.40
Henry M. Cooper <i>et al.</i> , due Oct. 5th.....	4,715.60
Little Rock cotton mills, due Oct. 13th.....	5,133.33
Ferguson Lumber Co. <i>et al.</i> , due Oct. 18th.....	2,000.00
Keating Implement & Machine Co., due Oct. 18th.....	1,778.67
Dickenson Hardware Co., due Oct. 20th.....	2,500.00

City Electric St. R'y Co., due Oct. 25th.....	2,500.00
City Electric St. R'y Co., due Oct. 25th.....	2,500.00
City Electric St. R'y Co., due Oct. 25th.....	2,500.00

 \$50,728.00

Yours very truly,

H. G. ALLIS, *President.*

27

EXHIBIT 7.

Copy.

NEW YORK, *July 5th*, 1892.

H. G. Allis, Esq., president, Little Rock, Ark.

DEAR SIR: Your favor of the 1st enclosing following notes indorsed as requested in ours of the 27th ulto., duly received :

Ouachita Valley bank, due Aug. 13.....	\$10,000.
M. M. Cohn & Co. <i>et al.</i> , due Sept. 7.....	6,000.
Gus Blass & Co., due Sept. 29.....	10,000.
J. E. Biscoe, due Oct. 4.....	1,100.40
Henry M. Cooper <i>et al.</i> , due Oct. 15.....	4,715.
Little Rock cotton mills, due Oct. 13.....	5,133.
Ferguson lumber mills, due Oct. 18.....	2,000.
Keating Implement & Machine Co., due Oct. 18... ..	1,778.
Dickenson Hardware Co., due Oct. 25.....	2,500.
City Electric St. R'y Co., due Oct. 25.....	2,500.
Do. do. due Oct. 25.....	2,500.
Do. do. due Oct. 25.....	2,500.

Yours truly,

JNO. J. McAULIFFE,

Ass't Cashier.

EXHIBIT 8.

(Telegram.)

Copy.

NEW YORK, *July 6th*, 1892.

First national bank, Little Rock, Ark. :

Will give you additional fifty thousand on short-time, well-rated bills discounted at five per cent. Money rates are little firmer. Answer if wanted.

U. S. NAT. BANK.

EXHIBIT 9.

LITTLE ROCK, ARK., *July 6*, 1892.

United States nat. bank, N. Y. :

We can use fifty thousand additional at five per cent. ; will send bills tomorrow.

FIRST NAT. BANK.

EXHIBIT 10.

LITTLE ROCK, ARK., *July 9th*, 1892.

United States nat'l bank, New York city.

DEAR SIR: To your telegram asking if we could use \$50,000 additional at 5% on short-time, well-rated bills we replied that we could and would send the paper, and enclosed, as stated hereunder, prime paper amounting to \$50,301.88, the proceeds of which please place to our credit and advise. We commence sending you, Monday, an equal division of our New York business, which in point of items will be light until crop-moving time.

Yours truly,

H. G. ALLIS, *Pr.*

71924	Biscoe.....	\$3,341 90
71905	Willbanks	1,026 40
71883	Oliver.....	2,100 00
71935	Press Pr't'g Co.....	2,500 00
71912	C. J. Lincoln & Co.....	3,000 00
71911	Wilson & Webb Co.	2,000 00
71919	M'ch'ts' Trans. Co.....	2,000 00
71932	Abeles & Co.....	2,000 00
71892	Ferguson Lumb. Co.....	4,000 00
71901	Conway Scott.....	2,857 15
71920	D. H. Thomas.....	5,000 00
71931	Mc & J. Co.....	5,000 00
71939	Press Pr't'g Co.....	5,000 00
71699	S. A. Wiggins	3,156 25
71933	T. H. Bunch.....	5,173 33
35583	Talbot & Sons.....	2,146 85

Total..... \$50,301 88

Collaterals recited in numbers 71883 and 71933 are held subject to order of the United States national bank.

H. G. ALLIS, *Pr.*

EXHIBIT 11.

Copy. Registered.

NEW YORK, *July 13th*, 1892.

H. G. Allis, Esqr., president, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in favor of the 9th inst., and (proceeds) of same placed to your credit:

Geo. B. Williams <i>et al.</i> , due Sept. 29.....	\$1,026.40,	dis. \$11.12
J. E. Oliver, due Sept. 30.....	2,100.	dis. 23.05
Press Pr't'g Co., due Oct. 1.....	2,500.	dis. 27.78
C. J. Lincoln & Co., due Oct. 7.	3,000.	dis. 35.83
Merchants' Trans. Co., due Oct. 7.....	2,000.	dis. 23.90
Wilson & Webb Sta. Co., due Oct. 7.....	2,000.	dis. 23.90
Chas. T. Abeles & Co. <i>et al.</i> , 9.....	2,000.	dis. 24.45

J. E. Biscoe, due Nov. 4.....	3,339.74, dis.	52.91
Ferguson Lum. Co., due Nov. 5.....	4,000. dis.	63.90
Conoway Scott, due Nov. 5....	2,857.15, dis.	45.64
Press Pr'tg Co., due Nov. 5....	5,000. dis.	79.86
McCarthy & Joyce, due Nov. 10.....	5,000. dis.	83.33
Thomas Manf. Co., due Nov. 10.....	5,136.67, dis.	85.61
S. A. Wiggins, due Dec. 4.....	3,160. dis.	63.20
Thomas Manf. Co., due Dec. 4.....	2,146.85, dis.	42.94
T. H. Bunch, due Dec. 10.....	5,170. dis.	107.71

Amount of notes..... \$50,436.81

Less discount at 5% 795.13

Proceeds..... \$49,641.68

We enclose under registered cover C. J. Lincoln Co. note \$3,000, maturing Oct. 7th, for the insertion of "days;" note reads "ninety after date." Please have same corrected and return to us.

Note of Thomas Mfg. Co., due Nov. 10th, draws interest at the rate of 8%, and we have calculated same as \$5,136.67.

Note of S. A. Wiggins, maturing Dec. 4, we calculated as \$3,160, being corrected amount of same.

Note of T. H. Branch, maturing Dec. 10th, we calculate as \$5,170.

Note of J. E. Biscoe, maturing Nov. 4th, we calculate as \$3,339.74.

Yours truly,

JNO. J. MCAULIFFE,

Ass't Cashier.

EXHIBIT 12.

Copy.

NEW YORK, *July 21st*, 1892.

S. B. Smith, Esq., ass't cashier, Little Rock, Ark.

DEAR SIR: Your favor of the 18th inst., enclosing C. J. Lincoln Co. note \$3,000, maturing Oct. 7th, 1892, completed as per our letter of the 13th inst., duly received.

Yours truly,

JNO. J. MCAULIFFE,

Ass't Cashier.

EXHIBIT 13.

(Telegram.)

Copy.

NEW YORK, *July 26th*, 1892.

First national bank, Little Rock, Ark.,

Can take fifty thousand more of your well-rated bills discounted at five per cent.

U. S. NAT. BANK.

EXHIBIT 14.

LITTLE ROCK, ARK., July 29, 1892.

United States national bank, New York city.

GENTLEMEN: Your telegram of the 26th, saying you could take \$50,000 more short-time, well-rated paper, I placed before our board today.

(Whioe) it is two weeks earlier than we need it, on account of the rate, we will take it now, and I enclose herein paper as listed below; amount \$50,089.93.

Yours very truly,

H. G. ALLIS, *President*.

We hold collaterals subject to your order, see (pencil) notations on paper for rating.

H. G. ALLIS, *Pr*.

EXHIBIT 15.

City Electric St. R'y Co.....	\$2,500.00 due Nov. 2, 1892.
City Electric St. R'y Co	2,500.00 due Nov. 5, 1892.
N. Kupferle... ..	5,000.00 due Nov. 8, 1892.
D. H. Thomas.....	900.00 due Nov. 22, 1892.
Ferguson Lumber Co.....	2,000.00 due Nov. 26, 1892.
O. B. Field.....	750.00 due Nov. 26, 1892.
F. D. Clark.....	750.00 due Nov. 26, 1892.
Charles T. Ables.. ..	750.00 due Nov. 26, 1892.
W. T. Wilson.....	750.00 due Nov. 26, 1892.
Dickenson Hardware Co.....	2,500.00 due Nov. 30, 1892.
McCarthy (?) Joyce Co.....	5,163.33 due Dec. 13, 1892.
McCarthy & Joyce Co	5,174.64 due Dec. 23, 1892.
Wilson & Webb Sta. Co.....	5,000.00 due Dec. 4, 1892.
.....	5,000.00 due Dec. 18, 1892.
James K. Jones.....	4,000.00 due Oct. 3, 1892.
Capital Construction & Inv't Co....	4,000.00 due Oct. 4, 1892.
Keating Implement & Machine Co..	3,296.59 due Oct. 18, 1892.
Total.....	\$51,124.93

31

EXHIBIT 16.

Copy.

NEW YORK, Aug. 1st, 1892.

H. G. Allis, Esqr., president, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in your favor of the 29th ult. and proceeds of same placed to your credit;

James K. Jones	due Oct. 5..	\$4,000.	dis. \$36.11	exc. \$8.24
Keating Impl. & Mach. Co. "	18..	4,296.59	35.71	
Capital C. & Invest. Co. 222 "	4..	4,000.	35.56	
City Elec. St. R'y Co. due Nov.	5..	2,500.	33.33	
" " " " " "	5..	2,500.	33.33	
N. Kupferle	" 8..	5,000.	68.75	
D. H. Thomas	" 22..	900.	14.13	
Ferguson Lbr. Co.	" 23..	2,000.	31.67	
W. G. Wilson	" 25..	750.	12.19	
Chas. F. Abeles	" 26..	750.	12.19	
F. D. Clarke	" 26..	750.	12.19	
O. B. Fields	" 26..	750.	12.19	
Dickenson Hard. Co.	" 30..	2,500.	42.01	
Wilson & Webb Sta. Co. Dec.	4..	5,000.	86.81	
McCarthy & J. Co.	" 13..	5,163.33	96.16	
Wilson & Webb Sta. Co. "	18..	5,000.	96.53	
McCarthy & J. Co.	" 23..	5,174.44	103.48	

Amount of notes..... \$50,034.36

Less dis. at 5%..... \$762.28

Exchange..... 8.24

770.52

Proceeds \$49,263.84

Yours truly,

JNO. J. MCAULIFFE,

Ass't Cashier.

EXHIBIT 17.

LITTLE ROCK, ARK., Oct. 31, 1892.

United States national bank, New York city.

GENTLEMEN: I enclose herein for discount and credit \$24,413.05; in other words we desire to renew this amount of our November maturities.

Our crop, as you know, is six weeks late, and we have to renew all October paper. The price, however, is good and collections for next month will be very satisfactory.

32 We trust that you can accommodate us in this matter, and would ask that you wire us the proceeds. All collaterals are held subject to your order.

Yours very truly,

W. C. DENNEY, *Cashier.*

No. 72526, J. R. Brown.....	\$1,000.00	due Dec. 21.
33, Ouachita Valley bank.....	10,000.00	" " 24.
539, Dickenson Hdw. Co.....	1,500.00	" " 27.
413, Press P't'g Co.....	2,500.00	due Jan. 2.
441, H. P. Johnson.....	4,813.05	due Jan. 4.
7, Press P't'g Co.....	1,000.00	due Jan. 8.
489, J. E. Oliver.....	1,600.00	due Jan. 13.
566, Press P't'g Co.....	1,000.00	due Jan. 30.

\$24,413.05

EXHIBIT 18.

(Telegram.)

Copy.

NEW YORK, Nov. 3, 1892.

First national bank, Little Rock, Ark.:

Proceeds twenty-four thousand one hundred and seventy-six dollars and sixty cents.

UNITED STATES NATIONAL BANK.

(Collect.)

EXHIBIT 19.

Copy.

NEW YORK, Nov. 3, 1892.

W. C. Denney, Esq., cashier, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in your favor of the 31st ulto., and proceeds of same placed to your credit:

J. R. Brown, due Dec. 21.....	\$1,000.	dis.	\$8.
Ouachita Valley bk., due Dec. 24... ..	10,000.	dis.	85.
Dickenson Hdw. Co., due Dec. 27.....	2,500.	dis.	22.50
Press P't'g Co., due Jan. 2, '93.....	2,500.	dis.	25.
H. P. Johnson, due Jan. 6.....	4,813.05	dis.	51.34
Press P't'g Co., due Jan. 8... ..	1,000.	dis.	11.
J. E. Oliver, due Jan. 13....	1,600.	dis.	18.94
Press P't'g Co., due Jan. 30.....	1,000.	dis.	14.67

Amount of notes \$24,413.05

Less discount at 6%..... 236.45

Proceeds.. \$24,176.60

Yours truly,

JNO. J. McAULIFFE,

Ass't Cashier.

33

EXHIBIT 20.

The First National Bank of Little Rock, Ark.

Nov. 25, 1892.

United States national bank, New York city.

GENTLEMEN: Kindly advise us if you can give us \$25,000 more in discounts. We have not decided whether we will make further discounts this year, although it is more than probable that we will have to, as our cotton men do not want to sell at present.

We believe the advance in price will cover shortage of crop, and that our collections will be equal to those of last year. If our cotton men continue to hold their cotton, it will be necessary for us to

make further rediscounts, and we want to know what we can do in case they refuse to sell.

If you can grant us this favor, kindly let us know what rate of interest you will want. Your immediate reply is requested.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 21.

Copy.

NEW YORK, Nov. 28, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Yours of the 25th is to hand.

We will give you the additional discounts as requested. You may send on your paper, and we will put same to your credit at 6%.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 22.

LITTLE ROCK, ARK., Dec. 13, 1892.

United States nat. bank, New York city.

GENTLEMEN: In accordance with our letter of the 25th ult., and your reply of the 28th ult., we find that we shall need some more money, as our cotton men are not shipping out any cotton. It seems to be the inclination of all of them to hold for a better price, and we are now carrying \$175,000 in demand loans on cotton, which we may have to carry two or three months longer.

34 We enclose herein paper as scheduled below. Kindly wire us proceeds to our credit, and oblige,

Yours very truly,

H. G. ALLIS, *President.*

Dickenson Hardware Co., due March 3.....	\$2,500 00
Dickenson Hardware Co., due April 6.....	5,000 00
City Electric St. R'y Co., due April 10....	5,000 00
City Electric St. R'y Co., due April 10.....	5,000 00
City Electric St. R'y Co., due April 10.....	5,000 00
McCarthy & Joyce Co., due May 10.....	5,000 00
McCarthy & Joyce Co., due April 10.....	5,000 00

\$32,500 00

We hold all collaterals recited, subjected to your order, and for your account.

EXHIBIT 23.

Copy. Registered.

NEW YORK, Dec. 16th, 1892.

H. G. Allis, Esq., pres't, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in your favor of the 13th inst. and proceeds of same placed to your credit:

Dickinson Hardware Co.	due M'ch 3, '93....	\$2,500	disc't	\$32 08
Do.	do. " Ap'l 6, '93....	5,000	"	92 50
City Electric St. R'y Co.	" 10	5,000	"	95 83
"	" 10	5,000	"	95 83
Do.	do. " 10	5,000	"	95 83
McCarthy & Joyce Co.	" 10	5,000	"	95 83
Do.	do. May 10	5,000	"	120 83

Amount of notes..... \$32,500
Less discount at 6% 628 73

Proceeds,..... \$31,871 27

We enclose herewith note of Dickenson Hardware Co. \$5,000 due Ap'l 6th for insertion of amount in body and return to us.

Yours truly,

JNO. J. McAULIFFE,

Ass't Cashier.

35

EXHIBIT 24.

(Telegram.)

Copy.

NEW YORK, December 17, 1892.

First national bank, Little Rock, Arkansas :

Letter thirteen received notes discounted proceeds credited account.

UNITED STATES NATIONAL BANK.

(Collect.)

EXHIBIT 25.

The First National Bank of Little Rock, Ark.

DEC. 20, 1892.

United States national bank, New York city.

GENTLEMEN : We have your favor of the 16th inst., enclosing the Dickinson Hardware Company note for completion, which we herewith return.

We charge your account with \$31,871.27, proceeds of \$32,500.00 of discounts.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 26.

Copy.

NEW YORK, Dec. 23, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR : Your favor of the 20th inst., enclosing note of the Dickenson Hardware Co. filled in as requested in ours of the 16th, duly received.

Yours very truly,

JNO. J. McAULIFFE,

Ass't Cashier.

EXHIBIT 27.

(Telegram.)

LITTLE ROCK, ARK., Dec. 21, 1892.

U. S. nat'l bank, N. Y.:

Can you discount thirty thousand country banks' paper secured by cotton thirty days no renewal desire to carry over holidays answer day message.

H. G. ALLIS, *President.*

36

EXHIBIT 28.

Copy.

NEW YORK, Dec. 21, 1892.

Mr. H. G. Allis, pres't, Little Rock, Ark.

DEAR SIR: We are in receipt of your telegram which reads as follows: "Can you discount thirty thousand country banks' paper secured by cotton—thirty days, no renewal—desire to carry over holidays—Answer day message," and we replied as follows: "Yes," which we now confirm.

Money is very close with us, and you have, no doubt, noticed that we have had practically a panic in Wall St. for several days, money loaning as high as 40 %. For this reason we beg that you will make your loan on us as light as possible, borrowing only what you are bound to have, but we will take care of you and give this loan as requested.

Yours truly,

J. H. PARKER, *President.*

EXHIBIT 29.

The First National Bank of Little Rock, Ark.

DEC. 21, 1892.

United States national bank, New York city.

GENTLEMEN: I enclose herein for discount and credit \$25,000 of the Bank of Batesville paper, secured by cotton and insurance, and \$5,000 of the People's Exchange Bank of Russellville.

Kindly send us statement of proceeds. This will carry us over the holidays, after which time our cotton will be disposed of, and our collections from our country banks paid.

Collaterals to these notes are held by us in trust for you.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 30.

Copy.

NEW YORK, *Dec. 27th*, 1892.

W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: We have this day discounted the following notes contained in your favor of 21st inst. and proceeds of same placed to your credit:

37	People's Exc. Bk. Russellville, due		
	Jan. 18, '93.....	\$5,000.	disc't \$18.33
	Bank of Batesville, due Jan. 18, '93.....	10,000.	" 41.67
	Do. " " "	10,000.	" 41.67
	Do. " " "	5,000.	" 20.83

Amount of notes.....	\$30,000.
Less discount at 6 %.....	122.50

Proceeds.....	\$29,877.50
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Yours truly,

JNO. J. McAULIFFE,
Ass't Cashier.

EXHIBIT 31.

Copy.

NEW YORK, *July 12th*, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Can you give us an active account? We should like to make our relations as close as possible and should appreciate it if you would give us your active business. Kindly let me hear from you in reference to it.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 32.

Copy.

NEW YORK, *July 15*, 1892.

W. C. Denney, Esq., cashier, Little Rock, Ark.

DEAR SIR: We return herewith 60 days' sight draft on London for £953, 19 9 for written indorsement, received from you in your favor of July 12th we could give you \$4.86 on this, which is the best the market affords.

Yours very truly,

J. W. HARRIMAN,
2d Ass't Cashier.

EXHIBIT 33.

Copy.

NEW YORK, *July 28, 1892.*

S. B. Smith, ass't cash., Little Rock, Ark.

DEAR SIR: As per yours of July 25th and our advice of July 15th in reference to exchange, we have this day credited you with the entire $\frac{1}{2}$ %, giving you \$4.86 on the £350 19 9 received in yours of July 18th, instead of \$4.85 $\frac{1}{2}$.

Yours very truly,

J. W. HARRIMAN,
2d Ass't Cashier.

38

EXHIBIT 34.

Copy.

LITTLE ROCK, ARK., — 8.

United States nat'l bank, New York:

Charge our account deposit with Southern nat'l bank for our credit twenty thousand dollars.

FIRST NAT'L BANK.
W. C. DENNEY, *Cashier.*

EXHIBIT 35.

LITTLE ROCK, ARK., *Aug. 8.*

United States nat'l bank, New York:

We confirm telegram to deposit twenty thousand with Southern nat'l for our credit.

W. C. DENNEY, *Cashier.*

EXHIBIT 36.

LITTLE ROCK, ARK., *Aug. 8, 1892.*

United States national bank, New York city.

GENTLEMEN: We wired you today to charge our account and deposit with the Southern National Bank of New York for our credit, \$20,000.00, which we herewith confirm.

I have your favor of the 4th inst., relative to two collections of \$1,500.00 each on J. H. Hamlen & Son, of Portland, Me., and in reply will say that we would like to have all drafts on this company sent to the First National Bank of Portland, Me., for collection, as Mr. Hamlen is director in that bank, and requests us to handle them in this way.

If you can arrange to make the collection through them, we would like to have it done.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 37.

Copy.

NEW YORK, *August 11, 1892.*

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: The deposit with the Southern national bank for your account was promptly made.

We note what you say about sending drafts on Hamlen to the First National Bank of Portland. We should be glad to
39 comply with any of your requests, but our correspondent there is the Portland national bank, and I do not see how we could, under these circumstances, send the drafts to the First national. Trusting that you will appreciate the difficulties standing in the way of our sending them in the way you request, I am,
Yours very truly, H. C. HOPKINS, *Cashier.*

EXHIBIT 38.

LITTLE ROCK, ARK., *Oct. 3, 1892.*

Mr. H. C. Hopkins, cashier, United States national bank, New York city.

DEAR SIR: Referring to the enclosed notice of overdraft, have to say that on September 29th our books showed a credit balance with you of \$23,177.95. We have never overdrawn our account with you.

Our books show that we have with you today \$9,143.22.

We have remittances coming to you from Michigan, amounting to about \$8,000.

Kindly investigate our account, and advise us who is to blame for this error.

Mr. Allis, our president, is in the East on business and will call upon you some time this week.

We trust to hear from you promptly in regard to this overdraft, as we cannot understand how it happened.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 39.

LITTLE ROCK, ARK., *Oct. 4, 1892.*

United States nat'l bank, N. Y.:

Sept. statement received and understood, we remit you today pay all checks answer.

FIRST NAT'L BANK.

EXHIBIT 40.

LITTLE ROCK, ARK., *10, 3, 1892.*

United States nat'l bank, N. York:

Our books show balance with you ten thousand and eight thousand in transit send statement to date at once.

FIRST NAT'L BANK.

40

EXHIBIT 41.

LITTLE ROCK, ARK., 10, 7, 1892.

United States nat'l bank, New York:

There is something wrong with mail. We are not overdrawn should have ten thousand balance with you sent you ten thousand today and will wire you fifteen more from St. Louis tomorrow. Our check on First nat. bank should be good. There is some mail miscarried.

FIRST NAT. BANK.

EXHIBIT 42.

LITTLE ROCK, ARK., Oct. 8, 1892.

United States nat. bank, N. Y.:

National Bank of Commerce St. Louis will deposit today fifteen thousand. We have credit balance without it now we are sure to be right answer when received have you received eight thousand from Jackson, Mich. We sent you ten thousand by mail yesterday.

FIRST NAT'L BANK.

EXHIBIT 43.

Copy.

NEW YORK, Oct. 7th, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: We have been obliged to advise you for several days past of your account being overdrawn. We cannot continue to send you even your own paper which we have discounted for you for collection unless you keep balances with us to warrant our doing so. You should have balances with us to keep this paper covered, at least.

Will you not let us hear from you in reference to this matter?

Yours very truly,

J. W. HARRIMAN,

2d Ass't Cashier.

EXHIBIT 44.

LITTLE ROCK, ARK., Oct. 8, 1892.

United States national bank, New York city.

GENTLEMEN: Replying to your many telegrams in regard to what we have done and what we shall do, we have to say that this whole matter began with a mistake by our book-keeper. In crossing the page on his balance book, the lines were misruled and he got every account on that page on the wrong line, and on the 29th when you notified us of being in overdraft, we supposed that we had with you \$23,000.

Since that we have sent you a remittance of \$15,000 say in round numbers, from Port Huron, \$10,000 in last night's mail, and \$15,000

by wire today from St. Louis. You should have had some few days ago a remittance of about \$8,000 from Jackson, Mich., which would have made \$48,000 sent you since the 29th of September. Our books show a balance with you today of \$15,000.

We have to say, in regard to the check of \$8,000 on the First national bank, which was unpaid, that that account has been good since we discovered this error, and we have been informed that the check has since been paid.

We would like to say that this bank has been in existence for twenty-five years, that we are responsible and do not make statements which we do not believe to be true.

As for keeping a balance with you, which you seem to think ought to be large to justify accommodations, which you are giving us, have to say that you ought to know that southern banks cannot keep large eastern balances during the cotton season. We need our money close to home, so that we can easily obtain currency for the payment of cotton.

For eight months in the year we carry balances in New York which justify us in having a line of credit \$100,000 larger than you have given us this year. We promised to give you our account, and we propose to do so, as soon as it can be conveniently brought about.

We trust that our books agree on balances, and will say that in future when we want an overdraft for one or two days, we will first obtain your permission by telegraph.

Trusting that this explanation is satisfactory, and requesting that you give us a prompt advice when the Jackson, Mich., deposit is received, and that our business relations from now on may be pleasanter than within the past few days, I am,

Yours very truly,

W. C. DENNEY, *Cashier.*

42

EXHIBIT 45.

Copy.

NEW YORK, (Oct.) 11th, 1892.

Mr. W. C. Denny, cashier, Little Rock, Ark.

DEAR SIR: Yours of the 8th, replying to our telegram concerning your overdraft, duly received. We note what you say in regard to the error on the part of your book-keeper. Your account now stands on the credit side.

As we have before advised you, the \$8,000 check on the First national bank which was refused on first presentation, was afterwards paid.

We note what you say in reference to giving us your account, and assure you that we shall welcome this increased relation.

We are aware of how close money must run with the southern banks during the cotton season, but, at the same time, we considered that you should at least have had funds with us to cover your paper maturing with us. We dislike overdrafts in any shape, and would prefer to have you send on your good, well-rated paper and have us

place it to your credit. We will promptly advise you upon receipt of remittance from Jackson, Mich., as you request.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 46.

LITTLE ROCK, ARK., Oct. 10, 1892.

U. S. nat. bank, N. Y.:

Our books show balance twenty thousand is that correct?

FIRST NAT'L BANK.

EXHIBIT 47.

Copy.

NEW YORK, Oct. 17, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Your telegram received. At the time we sent the paper forward for collection your account with this bank was overdrawn to a considerable extent, and you also had other paper in your hands not yet matured. As your balances at that time did not warrant our sending you an increased line, we forwarded the paper for collection to another correspondent.

Now that you have good balances with us, it is our intention to send you collections as usual, and we trust that it will not
43 be necessary for us to send collections upon Little Rock and other points in Arkansas, upon which you have usually collected for us, to any other bank.

Yours very truly,

J. W. HARRIMAN,

2d Asst Cashier.

EXHIBIT 48.

Copy.

NEW YORK, Oct. 27, 1892.

Mr. W. C. Denney, cashier, First nat'l bank, Little Rock, Ark.

DEAR SIR: Your account is today overdrawn over \$2,200. Please see that you have sufficient funds with us to meet maturing bills discounted.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 49.

LITTLE ROCK, ARK., Oct. 29, 1892.

Mr. H. C. Hopkins, cashier, New York city.

DEAR SIR: I have your overdraft notice of the 26th, and wired you today that our balance should be about \$33,000.

We sent you on the 17th a cash item on Boston with bill of lading attached, for \$1,233.87; also one on the 20th for \$1,935.11, and on the 22nd one for 14,420.19, which you do not appear to have redited on receipt.

We were advised on the 17th that \$5,000 had been sent you from Saginaw, Mich., and on the 26th \$19,733.07 had also been sent you from Saginaw, and on the 27th \$9,030.84 had been sent you from Manistee, Mich. We have not had any credit notice from you on these matters, but they certainly must be in your hands by this time. These items should give us a balance of \$33,227.82 today.

I would like to ask again in regard to the manner in which you propose to handle our cotton drafts, with bills of lading attached. It was our understanding that these items were to be taken on receipt at par. If you have changed your mind as to the way of handling them, please advise us.

I would also say that we do not overdraw our account, and if it should appear so on your books, you may be positively certain that there is something in transit to cover the account. Whenever we want to overdraw, we will ask for it by wire, and we will never want it for more than one or two days; but since we have
44 had an account with you we have not in any instance overdrawn our account. We trust that you have received these items by this time and that the account is as we state it.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 50.

Copy.

NEW YORK, Nov. 1, 1892.

W. C. Denney, Esq., cashier, Little Rock, Ark.

DEAR SIR: Yours of Oct. 29th, in reply to our notice of overdraft, duly received. The remittances which you state should have reached us have since been received and credited to your account, and your account now stands on the right side.

In relation to handling cotton drafts with bills of lading attached, would state that all "sight" drafts upon the east carry grace, which would necessitate a deduction for the time between the receipt and the maturity of the drafts. This is our custom with all our southern correspondents who forward us such drafts. If you will have these drafts drawn "on demand," we will then pass them to your credit on receipt free of charge, but, as explained above, all "sight" items carry three days grace, and are, therefore time items. Should you prefer to have us pass these time items directly to your credit, less one-tenth of 1 %, we shall be glad to comply with your wishes; otherwise, we will enter for collection and credit when paid.

Kindly let us know what your wishes are in the matter.

Yours very truly,

J. W. HARRIMAN,

2d Ass't Cashier.

EXHIBIT 51.

LITTLE ROCK, ARK., Nov. 7, 1892.

Mr. Joseph W. Harriman, second ass't cashier, New York city.

DEAR SIR: Replying to your favor of the 1st inst., in regard to the handling of cotton drafts, have to say that the New York banks

do not seem to agree on the handling of sight drafts. Our other correspondent there takes all cotton paper, whether sight or demand, for credit on receipt at par. Of course if there is a net loss to you in crediting up the sight items on receipt, we will not send them to you. We do not expect any one to favor us at a loss.

Yours very truly,

W. C. DENNEY, *Cashier.*

45

EXHIBIT 52.

Copy.

NEW YORK, Nov. 11, 1892.

W. C. Denney, Esq., cashier, Little Rock, Ark.

DEAR SIR: Yours of Nov. 7th, in reference to cotton drafts, received. As you are doubtless aware sight drafts on New England carry grace. Will you please advise us of the amount you would be likely to send us of such items drawn at sight. If you could have these drafts drawn on demand there would be no trouble at all in any way, and we would take them from you without charge.

Please let us hear from you further in reference to this matter.

Yours very truly,

J. W. HARRIMAN,

2d Ass't Cashier.

EXHIBIT 53.

Copy.

NEW YORK, Nov. 25, 1892.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: We have your favor of the 21st inst. enclosing par list, and we thank you for same.

We appreciate your desire to do the best you can for us, and give us your best possible terms on our collections.

Yours very truly,

H. C. HOPKINS, *Cashier.*

EXHIBIT 54.

Copy.

NEW YORK, Jan. 7th, 1893.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: We note of late that your account has been frequently overdrawn by collection of your bills discounted maturing, and by straight checks. This is not as it should be. We have been in receipt of instructions from you to pay the ass't treasurer several amounts for your account, but your account has not warranted our doing so, not having balance on hand to meet such requests. Will you please look into this matter and give us good balances.

Yours very truly,

J. W. HARRIMAN,

2d Ass't Cashier.

46

EXHIBIT 55.

LITTLE ROCK, ARK., 1, 9, 1893.

U. S. nat'l bank, N. Y.:

We transfer by wire from St. Louis tomorrow morning.

FIRST NAT'L BANK.

EXHIBIT 56.

Copy.

NEW YORK, Jan. 9th, 1893.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Your telegram in response to our wire referring to your overdrafts, received. I can't understand why you state "you will transfer funds to cover from St. Louis tomorrow."

In the first place you should not keep all of your funds with your St. Louis correspondent, at any rate you should keep enough to keep your account covered in New York, with us.

Will you not look into this matter and advise us.

Yours very truly,

J. W. HARRIMAN,

2d Ass't Cashier.

EXHIBIT 57.

LITTLE ROCK, ARK., Jan. 11, 1893.

United States national bank, New York city.

GENTLEMEN: The annual meeting of the directors of this bank was held at the president's office on January 10th.

The resignation of Mr. H. G. Allis as president was accepted by the new directors, and Mr. N. Kupferle was elected to that position. Below please find the signatures of the signing officers of this bank.

Very truly,

W. C. DENNEY, *Cashier*.

EXHIBIT 58.

Copy.

NEW YORK, Jan. 16th, 1893.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Yours of the 11th inst. notifying us of the election of Mr. Kupferle as president of your bank in place of Mr. Allis, received. We have noted the change and will recognize Mr.

47 Kupferle's signature with your own and Mr. Smith's in payment of drafts against your account.

Yours very truly,

J. W. HARRIMAN,

2nd Ass't Cashier.

EXHIBIT 59.

Copy.

New York, Jan. 24th, 1893.

Mr. Logan H. Roots, president First national bank, Little Rock, Ark.

DEAR SIR: In view of the reports which we have seen in the papers regarding the assignment of the McCarthy & Joyce Co. and of the Press Printing Co., I write to ask what the condition of these companies is, and whether or not their notes will be promptly met at maturity. At the same time, I give you a list of the paper which we have rediscounted for your bank.

We are very glad to get your telegram today, advising us that the attachment on your funds would soon be removed.

We today were able to collect some of your remittance checks and from the proceeds have paid the checks presented today, and have deposited \$4,000 with the assistant treasurer for your credit.

Yours very truly,

H. C. HOPKINS, *Cashier.*

Press Print'g Co. & Geo. R. Brown, due Jan. 30	\$1,000
Dickinson Hardware Co., due M'ch 3	2,500
Dickinson Hardware Co., due April 6.	5,000
City Electric St. R'y Co., due April 10.....	5,000
City Electric St. R'y Co., due April 10.....	5,000
City Electric St. R'y Co., due April 10.....	5,000
McCarthy & Joyce Co., due April 10	5,000
McCarthy & Joyce Co., due May 10	5,000

EXHIBIT 60.

LITTLE ROCK, ARK., Jan. 26, 1893.

United States national bank, New York city.

GENTLEMEN: Kindly send us memorandum statement of discounts you have made for us since July 1st, 1892, giving name, due date, amount, and the time the discount was made.

Yours very truly,

S. B. SMITH,

Ass't Cashier.

48

EXHIBIT 61.

Copy.

New York, Jan. 30, 1893.

S. B. Smith, Esq., cashier, Little Rock, Ark.

DEAR SIR: As requested in yours of the 26th inst., we herewith enclose memo. of items discounted for account of the First National Bank of Little Rock, Ark., from July 1st, 1892, to January 30th, 1893.

Yours truly,

JNO. J. MCAULIFFE,

Ass't Cashier.

EXHIBIT 62.

LITTLE ROCK, ARK., Jan. 27, 1893.

United States national bank, New York city.

GENTLEMEN: Below please find the duly authorized signatures of the officers of this bank.

Yours very truly,

W. C. DENNEY, *Cashier.*

EXHIBIT 63.

Copy.

NEW YORK, Feb. 1st, 1893.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Yours of the 27th is to hand, enclosing signatures of your officers, and same have been placed on file, and will be duly recognized in payment of drafts, etc.

Yours very truly,

J. W. HARRIMAN,
2nd Ass't Cashier.

EXHIBIT 64.

Copy.

NEW YORK, Feb. 3, 1893.

First national bank, Little Rock, Ark.

GENTLEMEN: We are today in receipt of a number of cancelled items amounting to \$9,698.36, upon this bank. Kindly advise us your wishes in regard to same. We hold them here.

Yours very truly,

J. W. HARRIMAN,
2nd Ass't Cashier.

49

EXHIBIT 65.

Copy.

NEW YORK, Jan. 30, 1893.

Mr. W. C. Denney, cashier, Little Rock, Ark.

DEAR SIR: Yours of the 27th is to hand. The attachment has not yet been vacated, and we wired you to that effect today. We are very anxious that you have this attachment removed, and let us go on doing business with you.

We are glad indeed to hear that your deposits are increasing and that you are over your trouble. I congratulate you on getting Mr. Roots to take charge of the bank with you, and wish you every success.

Yours truly,

J. H. PARKER, *President.*

EXHIBIT 66.

Copy.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
LITTLE ROCK, 1, 21, 1893.

U. S. nat'l bank.

DEAR SIR: Kindly mail me a list of notes held by you and re-discounted by the First Nat. Bank Little Rock, Ark., also render statement showing balance of the above-named bank from January 1st up to and including January 19th, also give amount of balance at close of business on day of receipt of this letter.

Very truly,

G. W. GALBRAITH, *Examiner*.

EXHIBIT 67.

Copy.

JANUARY 26, 1893.

G. W. Galbraith, Esq., examiner, Little Rock, Ark.

DEAR SIR: As you requested in yours of 21st ult., please find below list of notes discounted for the account of the First National Bank of Little Rock, Arkansas, and now held by this bank.

Note of Press Printing Co. <i>et al.</i> , due Jan. 30, 1893.....	\$1,000
Note of Dickinson Hdw. Co., due M'ch 3, 1893... ..	2,500
Note of Dickinson Hdw. Co., due April 6, 1893.....	5,000
Note of City Electric St. R'y Co., due April 10, 1893.....	5,000
Note of City Electric St. R'y Co., due April 10, 1893.....	5,000
Note of City Electric St. R'y Co., due April 10, 1893.....	5,000
Note of McCarthy & Joyce Co., due April 10, 1893.....	5,000
Note of McCarthy & Joyce Co., due May 10, 1893.....	5,000

50 If it would serve you in any way we will send you a list of all notes discounted by us for the First national bank, Little Rock, Ark., also; please find statement of account current as requested.

Yours truly,

J. J. MCAULIFFE,
Ass't Cashier.

EXHIBIT 68.

Copy.

Office of Logan H. Roots, receiver the First National Bank of
Little Rock, Ark.

MAR. 9, 1893.

United States national bank, New York city.

GENTLEMEN: In a memorandum of discounts furnished by you to this bank, which I find here, there are the following-mentioned items which do not appear in any way upon the books of this bank:

George R. Brown, H. G. Allis	\$5,000.00
George R. Brown, H. G. Allis	5,000.00
George R. Brown, H. G. Allis	5,000.00
George R. Brown, H. G. Allis	5,000.00
James Joyce, H. G. Allis.....	5,000.00
James Joyce, H. G. Allis.....	5,000.00

I am endeavoring to get at the facts of all these matters as rapidly as possible, and shall be pleased to have you forward me all the information you can, including full copies of the correspondence upon which these discounts were made.

Very respectfully,

LOGAN H. ROOTS, *Receiver*.

* * * * *

EXHIBIT 70.

Copy.

Office of Logan H. Roots, receiver the First National Bank of Little Rock, Ark.

MAR. 28, 1893.

United States national bank, New York city.

GENTLEMEN: We find in our files a letter from you of December 16th reciting the discount of certain notes, forwarded from here under date of the 13th. We cannot find any copy of the letter, sending the notes of discount.

51 There are reasons why we would like an authenticated copy of the letter forwarding the papers, and as full a description of the papers as practical.

If not too much trouble, we would like a copy of each note, and its endorsements, especially of the Electric Street Railway Company and the McCarthy & Joyce Company, which you now have in hand.

Your prompt and early attention will be appreciated.

LOGAN H. ROOTS, *Receiver*.

EXHIBIT 71.

Copy.

MARCH 31ST, 1893.

Mr. Logan H. Roots, receiver First national bank, Little Rock, Ark.

DEAR SIR: Yours of the 28th is to hand. I enclose you sworn copy of the letter from Mr. H. G. Allis, president, under date of December 13th, 1892. We have already sent forward for collection all the notes in question, except the McCarthy & Joyce note due May 10th, of which we send you an exact copy. We have taken the particulars of the other six notes from our discount book, as far as we have them recorded, which we enclose you herewith.

Yours very truly,

(S.)

H. C. HOPKINS, *Cashier*.

P. S.—Will you kindly inform us how the affairs of the First national bank stand, and what the prospects are of its paying its liabilities in full? Thanking you in advance I am

Yours very truly,
(S.)

H. C. HOPKINS, *Cashier.*

EXHIBIT 72.

Copy.

Office of Logan H. Roots, receiver United States national bank.

LITTLE ROCK, ARK., *Apr'l 13, 1893.*

United States national bank, New York city.

GENTLEMEN: In order that we may keep in hand information concerning the paper upon which this bank is indorser, please advise us as to what paper has been paid which has been discounted by you for this bank.

Very respectfully,

LOGAN H. ROOTS, *Receiver.*

52

EXHIBIT 73.

Copy.

APRIL 18TH, 1893.

Logan H. Roots, Esq., receiver 1st nat. bank, Little Rock, Ark.

DEAR SIR: In compliance with your request of the 13th inst, I beg to enclose a memo. of notes discounted by this bank for the account of the First nat'l bank, Little Rock, Ark., setting forth the items paid, unpaid, and to mature.

Trusting that this will meet your wishes, and should you desire any further information, you have only to command.

Yours truly,

(S.)

J. J. McAULIFFE,
Ass't Cashier.

EXHIBIT 74.

Copy telegrams.

LITTLE ROCK, ARK., *Jan. 9th, 189-*

To Dr. J. H. Parker, New York:

First national in trouble. Bank examiner here. Can't tell until he reports condition.

JOHN G. FLETCHER.

ST. LOUIS, MO., *Jan'y 17th, 1893.*

J. H. Parker, pres't U. S. nat'l bank, N. Y.:

I am told there is some talk in Little Rock about a bank there.

C. W. BULLEN.

LITTLE ROCK, ARK., *Jan'y 18th, 1893.*

United States nat. bank, New York:

We have no knowledge of any such transaction.

FIRST NAT'L BANK.

LITTLE ROCK, ARK., *Jan'y 19th*, 1893.

U. S. nat'l bank, New York :

In reply to yours of 18th will say the bank never held the Joyce notes and they do not appear on our books. Thanks for kind offer ; we do not need assistance at present.

FIRST NAT'L BANK.

53

EXHIBIT 75.

Copy telegrams.

LITTLE ROCK, ARK., *Jan'y 19*, 1893.

To U. S. nat'l bank, New York :

Our books show December sixteenth seven thousand five hundred of Dickinson Hardware Company and no more.

FIRST NATIONAL BANK.

St. LOUIS, Mo., *Jan'y 20*, 1893.

J. H. Parker, pres., New York :

Have private letter from Little Rock giving opinion that foreign creditors will have to look to their collaterals.

C. W. BULLEN.

St. LOUIS, Mo., *Jan'y 20*, 189-.

J. H. Parker, pres't, New York :

Press Printing Company and the McCarthy & Joyce Co. assigned preferring First national bank Little Rock City Electric R'y heavily bonded other collaterals appear to be good. Local banks are loaning on banks best collaterals so that depositors are being paid off. Mr. Bullen out of city.

JNO. CARO RUSSELL, *Cashier*.

EXHIBIT 76.

Copy telegrams.

JAN'Y 20, 1893.

(Over Hubbard Price & Co.'s private wire.)

First national in trouble but not yet failed. They had a little run on them three days ago but other banks assisted them enough to pay and bank still open. The officers and people near them seem to owe bank large amounts. Understand the president alone owes the bank about two hundred thousand and others—bank examiner is here and my opinion is that the end is not yet.

JAN. 24, 1893.

(Over Hubbard Price & Co.'s private wire.)

Col. Logan H. Roots the former president has been elected to that position again and the First national bank is all right. A sixty per cent. assessment has been decided on and with Mr. Roots as president and Dr. Taylor as vice-president confidence is at once restored.

54

(S.)

PICKETT.

FEB'Y 10, 1893.

H. G. Allis was arrested about twenty minutes ago.

(Hubbard Price & Co.'s private wire.)

LITTLE ROCK, ARK., May 10, 1893.

H. C. Hopkins, cashier, New York :

Payment refused note McCarthy & Joyce Co. five thousand due today. Sent us through Pine Bluff.

M. H. JOHNSON, *Cashier.*

All the letters from Allis and Denney to the United States national bank and attached as exhibits to said deposition are written on the letter-heads of the First National Bank of Little Rock.

EXHIBIT "77."

The account current here referred to began June 27th, 1892, and continued until the suspension of business of the First national bank. It shows almost daily entries of debit and credit. It shows that the several notes discounted by the U. S. national bank and referred to in the depositions of the officers of that bank, being 49 in number, were charged against the account of the First national bank by the U. S. national bank at the several dates of their maturity. In $\frac{2}{3}$ of the instances where such charges were made the balance to the credit of the First national bank on the books of the U. S. national bank was sufficient to cover the charge. In other instances the balance to the credit of the First national bank was insufficient to meet the charge at the time of the entry, and in the other instances the account of the First national bank was in overdraft as shown by the books of the U. S. national bank at the time the charge was made.

The account shows that at the time of the suspension of the First national bank the latter bank had a credit of 467.86 upon the books of the U. S. national bank. Against this balance the notes in suit with protest fees were charged on the account April 17th
55 and May 15th, 1893, making the account show a balance in favor of the U. S. national bank of \$24,558.03.

This is the paper marked "77" referred to in the depositions of Henry C. Hopkins, James H. Parker, Joseph W. Harriman, and John J. McAuliffe, hereto annexed.

H'Y H. WHITMAN,
Notary Public.

H. C. HOPKINS.
J. H. PARKER.
J. W. HARRIMAN.
J. J. McAULIFFE.

J. H. Parker, president; Joseph W. Harriman, 2nd assistant cashier, and John J. McAuliffe, assistant cashier, each testified to identically the same facts in the identical language as Henry C. Hopkins, and it is agreed that the depositions of Hopkins shall be treated as the deposition of each of the said witnesses without the necessity of copying the deposition of each witness.

56 M. H. JOHNSON, a witness for plaintiff, testified as follows :

Q. Where do you live ?

A. Little Rock.

Q. What is your business ?

A. Cashier Bank of Little Rock.

Q. How long have you been cashier of that bank ?

A. Six years.

Q. Did that bank hold at any time five notes which I show you—the notes in controversy in this case—for collection, or presentment or protest, three of City Electric Street Railway Company and two of McCarthy & Joyce ?

A. Yes, sir ; they did. They held them for collection.

Q. Have you the letters transmitting the notes to you ?

A. Yes, sir.

Counsel for plaintiff here reads letter to the jury as follows :

" PINE BLUFF, ARK., 4, 15, '93.

Bank of Little Rock.

DEAR SIRs: Enclosed please find as stated below for collection and credit.

Very respectfully,

W. D. HEARNE, *Cashier.*

City Electric Street Railway Company.....	\$5,000	Protest.
"	5,000	"
"	5,000	"
McCarthy & Joyce Company.....	5,000	" "

57 Q. Was that by your bank that note " Protest ? "

A. No, sir ; that was by the sender, and that is an instruction to protest. Each one has opposite " Protest."

" PINE BLUFF, ARK., May 1, '93.

Bank of Little Rock.

DEAR SIRs: Enclosed please find as stated below for collection and credit.

Very respectfully,

W. D. HEARNE, *Cashier.*

No. 34689 Sam. Churchill.....	\$28.35	No protest.
No. 34673 McCarthy & Joyce.....	5,000.00	Protest.
No. 6946 E. H. Hudson & —.....	40.00	Protest.

Wire United States National Bank New York if this note is not paid."

Q. These are the letters transmitting the paper to you for collection or protest ?

A. Yes, sir.

(—.) Did you cause them to be protested ?

A. I did ; yes, sir.

Q. How long have you been in the banking business ?

A. About fifteen years.

Q. How long have you been in the banking business at Little Rock?

A. About six years.

Q. State whether or not the banks at Little Rock have been in the habit of rediscounting paper since you have been here?

A. The banks have been in the habit of rediscounting.

Q. To what extent have they been in the habit of rediscounting?

A. Well I could only say as to my own bank.

Q. Well, in what season of the year do you rediscount paper?

A. Generally in the latter part of the summer, commencing with August.

Q. Well, has it been the custom of your bank to rediscount considerable during that season?

A. Some years we have; other years we have been very light in discounting.

Q. Now I will ask you, from your knowledge and association of other banks here, don't you know that other banks have done the same thing, rediscounted?

A. Yes, sir; I know they have.

Q. I will ask you if it is necessary during certain seasons of the year for them to rediscount, and state why it is?

A. Well, their capital is not sufficient to meet all the needs of the borrowers, and they sell paper, call it rediscounting.

58 Q. What do you mean by rediscounting?

A. Well, they sell it to banks in the East at a nominal rate of interest.

Q. You would send to the banks in the East and they would rediscount it at a nominal rate of interest?

A. Yes, sir.

Q. What now was the custom or the method of rediscounting? Who would attend to the rediscounting of paper generally for the banks? State, Mr. Johnson, what you know about the manner of rediscounting, who generally attended to it.

A. The president and cashier had authority to do the rediscounting.

Q. How did they do it as a rule? Did the president and cashier do it?

A. The president and cashier did it.

Q. Were they required to get an order or authority from the board of directors to do so?

A. No, sir.

Q. Do you know anything about the manner in which the First national bank conducted its business in that respect?

A. No, sir.

Q. Do you know anything about the custom of the other banks?

A. No, sir.

Cross-examination:

Q. Is your bank a national bank?

A. No, sir.

Q. Was it the custom in your bank for the president to take

these matters in his own hands and to do as he pleased about borrowing money?

A. Well, the president and cashier always sent off notes for rediscount when the bank needed it.

Q. Who did that? The president or cashier?

A. The two officers in conjunction.

Q. The cashier commonly conferred with the president and then transacted the business?

A. Yes, sir.

Q. The cashier is ordinarily recognized as the official organ of the bank, is he not?

A. Yes, sir.

Q. You state that in the latter part of the summer, that banks here, when they are in the habit of discounting, that was the time, I believe, was it not?

A. Usually, yes sir.

Q. At other times it was unusual?

59 A. Yes, sir, it was not very often that rediscounting was done at other seasons.

Q. Now, in raising money in that way, it was usual with the banks also sometimes to execute a note themselves directly for the loan that was made, wasn't it?

A. Yes, sir; that was sometimes done.

Q. That was considered just as legitimate among your bank officers as rediscounting, and considered as about the same thing, was it not?

A. Yes, sir.

Q. They would also sometimes, would they not, issue a certificate of deposit and take money from other banks and make a loan in that form, would they not?

A. Yes, sir.

Q. They considered that in about the same light as what you called rediscount?

A. Yes, sir.

Q. It was all done for the same purpose?

A. Yes, sir.

Q. And the same authority was possessed by the different officers for doing one thing as for doing the other?

A. Yes, sir.

Redirect:

Q. Mr. Johnson, which was the most common method, to rediscount, or to give a note by the bank direct?

A. Rediscount.

Q. Well, I will ask you if it was not a rare thing for a bank to give a note direct?

A. It was for our bank, I do not know about other banks.

Q. Judge Cockrill asked you about the difference between the rediscounting and giving a note direct. What is the difference between?

A. Well, rediscounting, the paper is absolutely sold, sold out-

right to the bank with whom we were discounting. Where we execute a note, we just simply execute our obligation to that bank to pay them so much money at a fixed time.

Q. Now, you had frequent dealings with the First national bank during the time Mr. Allis was there, did you not? And you knew of its dealings?

A. Yes, sir, we knew something of it, of course.

Q. State to the jury, if you know, who was the man in authority there at that bank.

A. I do not think I could answer that specifically. I had no dealings that would let me know who was in authority.

60 C. T. WALKER, a witness for plaintiff, testified as follows:

Q. Where do you live?

A. Am living here at present.

Q. Were you cashier of the First national bank during the time Mr. Allis was president of the bank?

A. About 11 months.

Q. What time was that?

A. From November, 1890, to October, 1891.

Q. Mr. Allis was president at that time?

A. Yes, sir.

Q. What was the custom of that bank at that time as to rediscounts?

A. Well, these matters were usually referred to the president of the bank. He directed me.

Q. Who referred them to him?

A. The cashier or assistant cashier. Usually the assistant cashier as that went into the current correspondence of the bank and he attended to that.

Q. Then whenever you needed rediscounts, you would refer that to the president?

A. Yes, sir.

Q. State now what he would do.

A. He generally directed what amount and where to send them.

Q. Then I understand he had control of the rediscounts?

A. Yes, sir, they were usually referred to him.

Q. Were these matters ever referred to the board of directors?

A. I cannot say whether he referred them to the board or not.

Q. You do not know?

A. No, sir.

Q. You were usually at every meeting of the board of directors, were you not?

A. Not at the discount meeting; very rarely I was present when they sat. I was there at the regular monthly meetings of the board.

Cross-examination:

Q. These matters were referred back to the cashier in the end for the purpose of procuring the discounts? When discounts were de-

terminated upon, the cashier was the man who transacted the business, was he not?

A. Well, most of that was done with Mr. Denney, the assistant cashier. I do not remember ever sending off a batch of them.

61 Q. They were not done by the president?

A. Well, before they were made at all.

Q. Merely asked his advice in regard to it?

A. Yes, sir, generally asked his instructions.

Q. And the cashier attended to the business?

A. Yes, sir, or the assistant cashier.

Q. You attended to much of that business yourself, did you not, in addition to what was done by the assistant cashier?

A. Not a great deal of it, because that usually went through the current correspondence of the bank, and Mr. Denney conducted all that.

Q. Mr. Denney was the assistant cashier?

A. Yes, sir. I do not think I ever sent off but one lot of rediscounts. I may have sent more, but I do not recollect of but one.

Q. The duties of your office required your attention elsewhere, and they provided Mr. Denney as the assistant cashier for the purpose of conducting it for the cashier?

A. He carried on the current correspondence usually—collections and everything of that kind generally went through his desk.

Q. Do you know anything about what took place in that bank after you left it?

A. No, sir; not at all.

Q. You do not know whether even the same course of dealing that was prevalent when you were there, continued?

A. Do not.

Q. Do not know whether the president was even consulted by the cashier and assistant cashier after that as to what should be done in regard to discounts?

A. Do not.

Q. Now, what time do you say it was that your connection with the First national bank ceased?

A. It was about between the 1st and 15th of October, 1891.

Q. You do not know what the course of business in the year 1892 was at all?

A. No, sir.

Redirect:

Q. You do not know whether the assistant cashier did all the re-discounting or all the correspondence or not, do you?

A. When?

Q. In reference to rediscounting while you were in the bank?

A. I cannot say he did all. It may be possible that I sent off once or twice, but usually it went through his hands.

62 Q. Did he do it all? Did the president ever do anything of that kind?

A. Not that I remember of.

Q. He did have the authority to direct the amount to be sent and

where to be sent, and the cashier or assistant cashier acted under his directions?

A. Yes, sir. Either Mr. Denney or I would say to him that something of the kind was needed, and he would direct the quantity and what correspondents usually to send it to.

Cross-examination:

Q. The First national bank had different correspondents in other States?

A. Yes, sir.

Q. And when rediscounts were to be made somebody had to determine to which one of these banks the notes would be sent for the purpose of rediscounting, and that is the duty that the president did?

A. Mr. Allis usually directed that.

Plaintiff introduces in evidence the reports or statements by the bank to the Comptroller of the Currency, showing the rediscounts and business of the bank, or date May 17th, 1892, and July 12th, 1892, as follows:

The report of May 17th was sworn to by W. C. Denney, cashier, and attested by James Joyce, E. J. Butler and H. G. Allis, directors, and showed "Notes and bills rediscounted, \$16,132.40."

The report of July 12th was sworn to by H. G. Allis, president, and attested by Chas. T. Abeles, E. J. Butler and John W. Goodwin, directors, and showed notes and bills rediscounted \$81,748.80.

OSCAR DAVIS, a witness for plaintiff, testified as follows:

Q. Where do you live?

A. Little Rock.

Q. What is your business?

A. Cashier German national bank.

Q. How long have you been cashier of that bank?

A. A little over seven years—since January, 1889.

Q. Up to and prior to the year 1893, what was the custom of your bank in reference to rediscounts? In other words, by whom was the rediscounting usually done?

A. The cashier usually.

Q. Did the president have anything to do with it as a rule?

A. Not as a rule; has made some on one occasion, perhaps two.

63 Q. Would he be consulted with by the cashier in reference to it?

A. Well, it has always been my practice to consult with the board.

Q. But I mean prior to 1893?

A. I think that was in 1891, at the time there was a decision passed, I believe it was in the National Bank case of Cincinnati.

Q. That was in 1893. Prior to that time, did the cashier or president consult with the board about making rediscounts?

A. Yes, sir, I always consulted with them subsequent to that

time. Prior to that time, we didn't adopt any resolutions. Subsequent to that time we adopted resolutions authorizing it.

Q. I will ask you about the extent to which rediscounts were made. Did your bank discount every year to any considerable extent?

A. Yes, sir, we discounted every year until the last three, I believe, or two, in various amounts, depending altogether on the supply and demand of money year. I think it was in the year 1891 we discounted quite extensively to help out some of our neighbor banks who didn't have as good opportunities for discounting as we had.

Q. I will ask you in reference to the discounts of the banks generally in Little Rock, what you know about their rediscounting?

A. Oh, it is customary every year, every summer, to rediscount. Almost all the banks rediscount every summer.

Cross-examination:

Q. What is the custom of banks generally in regard to discounting. Do they not require evidence that the officer of the bank who desires to rediscount paper, has authority from the board of directors?

A. That is required now, but it was not prior to that decision.

Q. The banks of New York and other commercial cities commonly require that, do they not?

(The plaintiff objected to the above question as incompetent, but the court overruled said objection, and plaintiff saved its exceptions.)

A. They do now.

Q. That is the common course of business with banks, isn't it?

A. It is now, after that decision was rendered, with New York, St. Louis and Chicago banks.

64 Q. Banks have no difficulty in transacting business after that mode, do they? It does not embarrass the transaction of business?

A. No, not at all.

Redirect:

Q. It is only since that decision that was made?

A. Yes, sir. The banks in these money centers got out circular letters notifying all their clients in the West and South; principally, they are the borrowing sections.

Q. Now, Mr. Davis, wasn't that since the First national bank failed?

A. Well, the First national bank failed in January, 1893. Yes, sir, it was after.

Plaintiff offered to introduce in evidence to the jury the report of the Comptroller of the Currency made in 1893, at page 299, as to the condition of national banks in Arkansas, showing as follows:

"Notes rediscounted" December 9, \$352,730.49; March 9, \$82,327.10; May 4, \$10,500.00; July 12, \$96,495.29; October 3, \$127,864.81.

To which the defendant objected and the court sustained the objection, and refused to allow plaintiff to introduce said report in evidence, to which ruling of the court, the plaintiff at the time, and in due form, excepted.

Plaintiff also offered to introduce in evidence to the jury the report of the Comptroller of the Currency for 1893, at page 273, showing the condition of national banks for 1892, which shows: "Notes and bills rediscounted," March 1, \$8,517,205.36; May 17, \$9,090,080.27; July 12, \$9,181,656.14; September 30, \$17,132,487.71; December 9, \$15,775,618.63.

To the introduction of which the defendant objected, and the court sustained the objection and refused to allow plaintiff to introduce said report in evidence, to which ruling of the court, the plaintiff at the time, and in due form, excepted.

Defendant's Testimony.

Thereupon, the defendant, to sustain the issues on its part, introduced the following testimony, to wit:

E. J. BUTLER testified as follows:

Q. Were you a member of the board of directors of First national bank in the year 1892?

A. Yes, sir.

65 Q. What was the custom of that bank in regard to taking paper for discount? How was it done?

A. The paper was usually handed in to the cashier in the morning with a statement of what they wanted, and sometimes the paper itself, and sometimes a statement of what they wanted. The cashier would enter the notes upon what is called a discount book, and the board would meet at half past ten or eleven o'clock and pass upon the paper.

Q. Had you a discount board that attended to these transactions?

A. Yes, sir.

Q. Who composed that board?

A. There were always three directors.

Q. Three directors of the national bank composed the discount board?

A. Yes, sir.

Q. And when a note was to be discounted by the bank, it was first handed to the cashier and entered by him upon the book, and then the members of the board passed upon the question as to whether the bank would take it?

A. Whether they would accept or reject it.

Q. A record was made of that?

A. Yes, sir.

Q. Is that the book on which said records were made (handing witness book)?

A. Yes, sir.

(It is conceded by the plaintiff that Mr. Butler was a member of the discount board for the period when the notes in suit would have been presented to that board, if presented at all; that it was the custom of the bank to make the record of such transactions, and that Mr. Butler, after a careful search of the discount book, testifies that there is no record that any one of the notes in suit was ever presented to the discount board for the use of the bank.)

Q. Was there any other method by which said notes could be presented to the bank and become the property of the bank?

A. No, sir; none that I know of.

Q. How often did that discount board meet?

A. Every day. At one time they met at half past ten, and after that at 11 o'clock.

Q. Explain to the jury, Mr. Butler, from that book, what would appear on it and how it is evidenced if the note is accepted by the bank, or if it is rejected.

A. The entries of the offerings are made in this book and president or cashier would read what was offered, stating the time the note was given, for what amount, and the indorsers, and the board
66 would vote upon it as to whether it should be accepted or rejected, and if the majority of the board were in favor of rejecting the discount offered, it would be so marked in the margin.

Q. Do the members of that board sign that record each day?

A. Yes, sir; those present sign.

Q. You find the signatures of the different members upon that record for each day?

A. I do. I find the record of the signatures of the directors present, approving or rejecting the offering.

Q. Who was president of the First national bank the year 1892?

A. H. G. Allis.

Q. Were you a regular attendant at the board meetings of the bank during that year?

A. Pretty regular, yes, sir; nearly all the meetings.

Q. Did Mr. Allis have authority to discount notes for the bank or to rediscount them?

A. Never that I knew of. I knew that when Col. Roots was president, he asked and received authority from the board to make rediscounts, but I do not know that Mr. Allis ever asked, and the board, when I was present—he never was given any authority to make rediscounts for the bank.

Q. Did he have authority from the bank to indorse its paper for rediscount?

A. No, sir; never that I was aware of.

Cross-examination:

Q. Did he ever ask for authority at any time?

A. I do not recollect of his having asked.

Q. Did the question ever come before the board as to rediscounts?

A. No, sir.

Q. So there was no question ever presented to the board as to the

authority of any one to rediscount after he came in there as president?

A. Not that I know of.

Q. The bank did rediscount paper, quite a large amount, after he went in as president, did it not?

A. Well, I do not know that ever I heard of it until after this trouble came up.

Q. Well, don't you know that it did rediscount paper—a good deal of it?

A. Well, I do not know how much. I know there were some rediscounts made.

Q. At all events, the question was never brought before the board as to the power of any one to rediscount paper after Allis went in as president?

A. Not that I remember.

67 Q. And you cannot say anything about the rediscounts?

A. No, sir.

Q. Are you sure you never heard of any rediscounts being made?

A. I do not recollect now. I know there were rediscounts made, but I cannot recollect any particular rediscounts, but in case there were, I would suppose it was by authority of the board during some time while I was absent.

Q. But you don't know it to be a fact?

A. No, sir.

Q. You don't remember the question ever having been brought up at all?

A. No, sir.

Q. There are a couple of statements made by the bank (being the statements heretofore introduced by the plaintiff) of May 17th, 1892, and July 12th, 1892, to which you as a director certify, which show, one of May 17th, shows rediscounts \$16,172.40, and the one of July 12th, 1892, shows rediscounts \$81,748.88. Did you sign these?

A. I couldn't say without referring to the original reports.

Q. These are the published reports, are they not?

A. They purport to be the published report but I do not know anything about it. I was one of the directors at that time.

Q. That is one of the usual forms of the reports published in the papers, isn't it?

A. Yes, sir.

Q. You now tell the jury that you do not know anything about the extent of rediscounts made by it?

A. No, sir; I cannot remember.

Redirect:

Q. Who was the cashier of the bank during 1892?

A. Mr. Denney.

Q. Do you know whether he transacted the business as to indorsing and rediscounting for the bank?

A. I always supposed that he did; I do not know.

Q. Did you know at any time of Mr. Allis transacting any business of that sort for the bank—of rediscounting?

A. I cannot recollect.

Q. Did you know that he had used the name of the bank upon the particular notes in suit before the bank failed? Did you get the knowledge before the bank failed?

A. No, sir; I do not think I ever heard of it until after the bank failed.

Q. Did you know of any instance in which Mr. Allis indorsed the name of the First national bank upon paper for rediscount?

68 A. Why I have seen paper as a witness in the courts here.

Q. Was not all of that paper like this refuted by the bank?

A. Yes, sir.

Q. Did you have any knowledge of any of these transactions until suits arose, or controversies arose in regard to them?

A. Never.

Q. Did any of these controversies arise until after the bank had failed?

A. No, sir; none that I ever heard of.

N. KUPFERLE, a witness for defendant, testified as follows:

Q. Were you a director of the First national bank in the year 1892, during the entire year?

A. Yes, sir.

Q. Did you hear Mr. Butler's testimony in regard to the method of transacting business, and the record that was kept for the discounting of notes?

A. Yes, sir.

Q. Is it your recollection that his statement of that is the method that was pursued by the bank?

A. Yes, sir; that is proper.

Q. Was you a member of that discount board during that year?

A. I think I was.

(It is conceded by the plaintiff that Mr. Kupferle was a member of the discount board for the period when the notes in suit would have been presented to that board, if presented at all; that it was the custom of the bank to make a record of such transactions, and that Mr. Kupferle after a careful search of the discount book, testifies that there is no record that any one of the notes in suit was ever presented to the discount board for the use of the bank.)

Q. Mr. Kupferle, did Mr. Allis have the power from the board of directors of the First national bank to indorse its paper for rediscount, or to rediscount it?

A. No, sir; never did.

Cross-examination:

Q. Was there anything ever said by the board, or before the board, Mr. Kupferle, about the power of Allis to rediscount paper?

A. No, sir; not that I recollect.

Q. Was the question ever brought before the board at all while Allis was president, about rediscounting paper?

A. No, sir.

69 Q. The bank rediscounted paper, did it not, during that time?

A. Yes, sir.

Q. Who generally attended to that?

A. Cashier.

Q. Did he always attend to it?

A. Yes, sir; it is customary.

Q. Don't you know that Allis frequently rediscounted paper?

A. No, sir; I do not.

Q. Who was the chief officer in that bank during that time? Who was the manager of the bank at that time, while Allis was there?

A. The chief officer, I considered the cashier.

Q. Not what you considered, but didn't Mr. Allis during the time he was president act as general manager of the bank and have general control?

A. Yes, sir; as president.

Q. And didn't he direct everything to be done there, and require it to be done, just as he wanted it pretty much, during that time?

A. I guess he directed most of the business, or all the business while he was there.

Q. Didn't he look after and supervise everything and direct the cashier what to do while he was there principally?

A. That is something I couldn't tell you, whether he did everything.

Q. As a rule, wasn't he the manager of the bank?

A. Yes, sir.

Q. And didn't the cashier act under his control as a rule?

A. I guess so; yes, sir.

Q. And didn't the cashier do everything he told him to do?

A. That is something I couldn't tell you.

Q. As a rule, I am speaking about.

A. There is a good deal of business to be transacted by the cashier over which the president has no power.

Q. Don't you know that Mr. Allis directed the affairs of that bank almost entirely?

A. As president he did; yes, sir.

Q. Don't you know that he undertook the direction of the cashier in everything almost?

A. No, sir; I do not know whether he did in everything or not.

Q. Don't you know that he required the cashier to do almost everything just as he told him?

A. He might have required of him a great many things which I do not know anything about.

70 Q. You was about there and you knew the power he exercised?

A. Yes, sir, he did use his power, of course.

Q. Now, you know that that bank was rediscounting paper?

A. Yes, sir.

Q. Neither Allis nor Denney ever called on the board for authority to rediscount paper, did they?

A. I recall only once where the president requested of the board that the bank should borrow some more money.

Q. That was only once. When was that?

A. That was in the fall of 1892.

Q. You knew the bank had been rediscounting paper long before that and borrowing money before that?

A. Yes, sir.

Q. And no authority had been asked of the board to do it?

A. No, sir.

Q. And that is the only time that you can remember that the authority was asked by Allis or any one else while he was there?

A. He asked or requested the board of directors to give their consent to borrowing more money.

Q. That was the only time?

A. The only time I recollect.

Q. You knew, however, that they were borrowing money and rediscounting paper continually?

A. Yes, sir.

Redirect:

Q. How many members of the board of directors was there in the year 1892?

A. If I am not mistaken, I think we had either 11 or 13, I forget which.

Q. It varied at different times?

A. Yes, sir.

Q. Never was less than eight or nine?

A. No, sir.

Q. When you spoke of a meeting of the board of directors, you referred to a full meeting, did you, of all the members?

A. Well, we very seldom had a meeting where all the directors were present.

Q. I mean by that you had a majority of all the members present?

A. A majority of the board, yes, sir.

Q. You had a daily meeting of the discount board, didn't you?

A. Yes, sir.

71 Q. Did they at any time rediscount, or authorize the rediscounting of paper? Did they have that authority?

A. No, sir, that was not their business.

Q. Theirs was to discount paper for customers of the banks?

A. The daily offerings, yes, sir.

Q. Did you ever know of Mr. Allis indorsing the name of the bank upon its paper for the purpose of rediscounting it?

A. No, sir, never did.

Q. The paper that has turned up here that was indorsed by him has been paper that was never in the bank, hasn't it?

A. I never saw that paper.

Q. Did you, as a member of the board of directors, or otherwise,

have any information that Mr. Allis was using the name of the bank upon his, or other people's paper, for accommodation?

A. No, sir, I never did.

Cross-examination:

Q. You didn't know he was using the name of the bank on the bank's paper?

A. No, sir.

Q. You knew he was discounting paper?

A. No, sir, it was not his place.

Q. Didn't the correspondence there show he was sending the paper for discount all over the country?

A. No, sir, I don't know anything about that.

Q. Wasn't it your business to know it?

A. I do not know.

Q. You was vice-president and one of the directors?

A. Yes, sir. I never knew anything about it until the failure of the bank—that he ever used the bank's name.

C. T. ABELES, a witness for defendant, testified as follows:

Q. Were you a director of the First national bank in the year 1892?

A. Yes, sir.

Q. Did you serve upon the discount board at different times during that year?

A. Yes, sir, I did.

Q. Was the custom that was pursued by the bank, in reference to the transactions, that Mr. Butler and Mr. Kupferle have detailed, about taking paper for discount, the common custom of the bank?

A. Yes, sir.

(It is conceded by the plaintiff that Mr. Abeles was a member of the discount board for the period when the notes in suit 72 would have been presented to that board, if presented at all; that it was the custom of the bank to make a record of such transactions, and that Mr. Abeles, after a careful search of the discount book, testifies that there is no record that any one of the notes in suit was ever presented to the discount board for the use of the bank.)

Q. Mr. Abeles, did Mr. Allis, as president of the First national bank, in the year 1892, have authority from the board of directors to indorse the name of the bank upon notes, or to rediscount them for the bank?

A. Not while I was there was any such authority given.

Q. Did you have any information that he had ever done such a thing in the name of the bank?

A. Not until after the failure of the bank.

Cross-examination:

Q. Was there anything ever brought before the board in reference to rediscounting?

A. I do not think it was ever mentioned in it while I was there.

Q. The authority of any one to rediscount was never mentioned before the board that you remember?

A. Not during my time, the short time I was there.

Q. You knew that the bank was rediscounting paper, did you not?

A. Yes, sir.

Q. And that somebody was transacting that part of the business, did you?

A. Yes, sir.

Q. Did you ever stop to inquire as to who it was doing it and by what authority?

A. Yes, sir; I think I have. I have been told the authority vested in the cashier.

Q. Did you stop to inquire who was doing that?

A. Well, as I say, I inquired of some of the directors.

Q. Did you inquire of Allis or Denney who was doing the rediscounting, and where they were doing it?

A. I do not recollect that I did.

M. M. COHN, a witness for defendant, testified as follows:

Q. Are you a director of the First national bank?

A. Yes, sir.

Q. During what period?

A. I was not a director in the year 1892.

73 Q. You went out in January, 1892?

A. I think so; yes, sir.

Q. How long had you been a director prior to that time?

A. Ten years or more.

Q. Was Mr. Allis president of the bank in the year 1891?

A. He was.

Q. Did he have authority from the board of directors in that year to endorse the name of the bank upon its paper, or to rediscount it?

A. I do not remember.

Q. Did he perform services of that sort for the bank that you knew of as director?

A. Not that I now remember of.

Cross-examination:

Q. Was the question ever brought up before the board while you was there as to who had authority?

A. I do not remember that it ever has.

Q. The question never presented itself to you or your mind?

A. So far as I now remember, it has not.

Q. Didn't you know that rediscounting was being done by the bank?

A. Well, I knew so from the statements.

Q. You didn't know by whom it was being done, or anything of that kind?

A. Well, I supposed it was being done by the cashier.

Q. Did you know?

A. I did not.

Q. Didn't stop to inquire?

A. I did not.

Redirect :

Q. Who was authorized in the bank to perform that duty?

A. I understood the cashier.

Cross-examination :

Q. How was he authorized?

A. By law.

Q. You are simply giving your legal opinion?

A. Well, I understood that was his authority.

The depositions of Geo. R. Brown and James Joyce were here read, from transcript in former case, as follows:

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Deposition.

GEO. R. BROWN, being duly sworn, testified as follows :

Q. What is your name?

A. George R. Brown.

Q. Are you the George R. Brown who is mentioned as payee in those notes? (Hands witness notes in suit.)

A. Yes, sir.

Q. Three of them?

A. Yes, sir.

Q. For what purpose did you endorse the notes?

A. For accommodation.

Q. Did you receive any consideration at all?

A. I did not.

Q. Were you indebted to the City Electric street railway at that time?

A. No, sir.

Q. To whom did you deliver the notes after indorsement?

A. To Mr. Allis.

Q. H. G. Allis?

A. Yes, sir.

Cross-examination :

Q. You say you were not president of the City Electric street — at that time?

A. No, sir; I never was president.

Q. You had nothing to do with the City Electric Street Railway Company?

A. I am not certain about at that time. I was a director at one time and secretary of the company.

JAS. JOYCE, being duly sworn, testified as follows :

Q. What is your name ?

A. James Joyce.

Q. Are you the James Joyce to whom this note was payable ?
(Hands witness one of the notes in suit.)

A. Yes, sir.

Q. And this one also ? (Handing witness another note.)

A. Yes, sir.

Q. Did you indorse the notes ?

A. It is my handwriting ; yes sir.

Q. Did you receive any consideration for the indorsement ?

A. No, sir ; none whatever.

Q. Were you a member of the McCarthy & Joyce Company ?

A. Yes, sir.

Q. Did the McCarthy & Joyce Company ever receive any consideration for the making of those notes ?

A. None whatever.

75 Cross-examination :

Q. For what purpose were these notes executed, Mr. Joyce ?

A. The object in giving those notes was to raise money for the McCarthy — Joyce Company.

Q. For the McCarthy & Joyce Company ?

A. Yes, sir.

Q. You say they received no consideration for them ?

A. None whatever.

Q. You indorsed them ?

A. Yes, sir.

Q. They were signed by the McCarthy & Joyce Company ?

A. Yes, sir.

Q. To whom were they delivered ?

A. To Mr. Allis, I believe.

(It is agreed by counsel that the signature of H. G. Allis individually and as president on the five notes in suit is the genuine signature of H. G. Allis, and that all were made by him.)

Q. Was Mr. Allis at that time the president of the First national bank ?

A. Yes, sir.

Q. Your company was doing business with the First national bank ?

A. Yes, sir.

Q. Owing the First national bank, was it not ?

A. I reckon so.

Q. These notes were given for the purpose of being negotiated and the proceeds placed to your credit at the First national bank, were they not ?

A. Yes, sir ; that was the way I understood it.

Redirect examination :

Q. Did you receive any credit for the proceeds of these notes, in any form ?

A. None whatever.

Q. Were they used for the purpose for which you delivered them to Mr. Allis?

A. No, sir.

C. H. Yost, a witness for defendant, testified as follows :

Q. What is your occupation ?

A. I am clerk for the receiver of the bank.

Q. Are you a book-keeper by profession ?

A. Yes, sir.

76 Q. How long have you pursued that calling ?

A. About six years.

Q. Were you a book-keeper for the First national bank before it failed ?

A. Yes, sir.

Q. What positions did you occupy in that bank ?

A. I had worked in nearly every department of the bank.

Q. Did you keep books in the bank ?

A. Yes, sir, I had kept all of the different sets of books at some period during the time I worked there. I was teller of the bank when it suspended.

Q. Are you familiar with the books of the First national bank ?

A. Yes, sir.

Q. Examine the notes that are sued on in this case and turn to the books of the bank, where in the ordinary course of book-keeping, they would appear, and state whether they appear in any form upon the books of the bank.

A. I have here the five notes that are in suit. I have examined each of the notes, and have examined the bills receivable book of the bank, which I introduce here in testimony, and there is no record whatever of the notes upon the bills receivable book.

Q. Is there any other place in the bank where they would appear upon record, except probably in the discount book ?

A. The bills receivable is the book of record for papers of this kind. It is the only book that they would be entered in ; that is, all the notes that were payable in Little Rock were entered in this book.

Q. Do they appear in that book at all ?

A. No, sir.

Q. Upon November 30th, 1892, the Dickinson Hardware Company discounted a note, dated November 30th, due in ninety days, making it due March 1st, 1893, for \$2,500, secured by stock, and on December 3rd, the same company discounted a note for \$5,000 due in four months. Can you trace these notes upon the books of the bank ?

A. Yes, sir, I think this book shows the notes.

(It is conceded by plaintiff that the notes appear on the bills receivable book.)

Q. Can you turn to the five notes in suit and trace the proceeds of these notes?

A. These notes were discounted by the U. S. national Bank of New York, prior to December 17th, 1892, and on that day, there was a charge against the United States national bank for the face of the notes, amounting to \$32,500; on the same day, there

77 were two credits made on the books, aggregating \$32,500.

One of them was a credit to the individual account of H. G. Allis for \$25,000. The other was a credit to rediscounts for \$7,500. Both credit tickets show on their face that the funds were gotten through the United States national bank.

Q. Now, explain to the jury what these tickets are and who made them and what is done with them.

A. The first ticket I read, which is a charge ticket, reads as follows: "First national bank, Little Rock, Ark., December 17th, 1892. Charge United States national bank, New York, for proceeds, Allis, \$25,000; rediscounts \$7,500; total \$32,500." (Signed) "H. G. Allis, president First national bank." This is the authority for an entry charging the United States national bank with the face of the notes that were then in their hands, and that are sued upon. It shows that that amount of money had been placed by the United States national bank to the credit of the First National Bank of Little Rock.

Q. And what is done at Little Rock?

A. The proper entry on the books of the First national bank would be a charge against the United States national bank.

Q. And the credit is made to him according to the ticket that you have exhibited?

A. Then a credit to offset this charge appears in two items, the first of which is a credit to H. G. Allis, which reads as follows: "Deposit in First national bank, Little Rock, Ark., by H. G. Allis, December 17th, 1892," and then the ticket reads "United States national bank \$25,000.00," which means that Mr. Allis had procured \$25,000.00 of the United States national bank which was placed to his credit. The other ticket reads: "Deposited in First national bank, Little Rock, Ark., by rediscounts December 17th, 1892," and the description is "U. S. national bank \$7,500.00," which is the proper entry if a note of the bank has been rediscounted. If a note belonging to the bank is rediscounted, the correct entry is to credit rediscounts and charge the bank who has taken the note. The charge and the credit offset each other.

Q. Who then got the benefit of the \$25,000 from that transaction?

A. The credit here is a credit to the individual account of Allis and is placed there subject to his check. It was obtained by Allis in New York, and the credit to the First national bank on the United States national bank books was simply a switching of balances.

Q. Did the First national bank get the benefit in any way of any part of that \$25,000.00?

78 A. No, sir, the money was placed directly to the credit of H. G. Allis and was used by him.

Q. Whose signatures do these papers bear that you have read to the jury?

A. The charge ticket is signed by H. G. Allis as president of the bank. Well, in fact, only charge tickets were signed by the officers or were required to be signed. All the tickets are in the handwriting of H. G. Allis.

Q. They are all in the handwriting of H. G. Allis?

A. Yes, sir. The entries were made on the books according to the tickets which I have just testified from.

Q. Can you turn to the books and state whether H. G. Allis drew that money out of the bank?

A. H. G. Allis continued to draw checks and make deposits from that time until about the time he went out as president of the bank, which was January, 1893.

Q. Was he continuously indebted to the bank thereafter?

A. I think that he was.

Q. What was his indebtedness to the bank as far as you can judge from the books at the time of the failure?

A. His individual account only showed an overdraft of \$380, but he was indebted to the bank in other ways.

Q. His overdrafts had been settled by notes, had they not, and entered up upon the books accordingly?

A. The overdraft had been settled by a switching of credits prior to the time he went out as president.

Q. Read the letter of H. G. Allis of December 13th 1892, the list of notes there stated, and state whether the entries there correspond with the entries made in accordance with the tickets that you have just testified about—whether the amounts there correspond. The letter describes the five notes and the two Dickinson Hardware Company notes.

(It is conceded that these entries refer to the notes described by Allis in his letter of December 13th, 1892.)

Q. What you have testified to here has been from your knowledge of the books, has it, Mr. Yost?

A. Yes, sir. I have had occasion to go over the books and compare the entries on the books with these charge tickets, together with a great many others.

Cross-examination:

Q. What amount was Allis indebted to the bank at the time these entries were made, according to these tickets you have referred to?

79 A. Well, I haven't a memorandum here of the amount he was indebted. He owed the bank something like \$50,000 in the way of notes that had been executed by himself individually.

Q. How much book account, overdraft, did he owe?

A. The individual account of H. G. Allis showed an overdraft of \$10,678.44 at the beginning of business on December 17th. By overdraft, I mean the amount that he owed the bank on his account, which was subject to check, and the account which received the deposits from time to time.

Q. There was that much balance against him?

A. That was the amount that he owed the bank.

This was all the testimony and evidence in the case on both sides.

80

Plaintiff's Instructions.

Thereupon the plaintiff requested the court to charge the jury as follows:

"The jury are directed to return a verdict for the plaintiff."

Defendant's Instructions.

And the defendant requested the court to charge the jury as follows:

"This is an action by the United States National Bank of New York against the receiver of the First National Bank of Little Rock, Ark., upon five promissory notes for \$5,000 each, three of which were executed by the City Electric Street Railway Company, payable to the order of G. R. Brown and H. G. Allis, indorsed by both of them, and further indorsed 'First national bank, Little Rock, Ark., H. G. Allis, pt. or ps.' Two were executed by McCarthy-Joyce Company to the order of James Joyce, indorsed James Joyce, H. G. Allis, also indorsed 'First national bank, Little Rock, Ark., H. G. Allis, pt.,' all bearing date December 7, 1892.

"The defendant in its answer denies the liability of the First national bank, because he says that the notes sued on were never the property of the bank, never were upon the books of the bank; that they had never been discounted by the defendant bank; that *that* their execution and discount by the plaintiff bank was a scheme or plan adopted by H. G. Allis to obtain money for his own use and benefit, and that the defendant bank never received any benefit whatever from the transaction."

2.

"These defenses would be an absolute bar to recovery by the plaintiff, and your verdict should be for the defendant, unless it shall appear that the plaintiff acted in good faith in the transaction and had no notice, express or implied, of the fraudulent character of the transaction or want of power or authority in Allis to bind the bank by his indorsement as president, and the procuring the discount of the notes by the plaintiff bank."

81

3.

"In determining whether Allis had authority to discount the notes for the bank, you are instructed that the mere fact that he was

president of the bank did not authorize him so to do. The president of a national bank has no authority by virtue of his office simply to bind the bank by indorsement of its name."

4.

"Before you find that he had implied authority by reason of the acquiescence of the directors of the defendant bank, you must find that the directors knew that he exercised such authority, or that he had been permitted, without their knowledge, to rediscount notes through a series of transactions such as would amount to a custom to do so, or else that the directors had knowledge that Allis carried on or negligently permitted him to carry on such a course of dealing with the plaintiff bank as to induce it to believe that they had conferred the power upon him to indorse or discount notes."

5.

"If the plaintiff bank received and discounted these notes under circumstances which were so much out of the course of ordinary and legitimate banking business as to require it to see to it that the agent or officer claiming to act for the defendant bank had special authority so to act, you should find for the defendant."

6.

"The borrowing of money by a national bank is so much out of the course of ordinary banking business as to require those making the loans to see to it that the officer or agent making the loan had special authority to borrow the money."

7.

"The jury are instructed that the president of a national bank has not authority to raise money by discounting the bank's notes without special authority from the board of directors. If, therefore, you find that the notes in suit were discounted by H. G. Allis without special authority of the board of directors, you will find
82 for the defendant, unless you further find from the preponderance of the evidence that the defendant bank received the proceeds of the notes discounted."

8.

"Rediscounting paper actually owned by the bank is to all intents and purposes borrowing money by the bank obtaining the rediscount, where the paper rediscounted is indorsed by the bank obtaining the rediscount in such a manner as to permit recourse upon the indorsing bank, as in this case."

9.

"If the jury finds that it was the course of dealing between the plaintiff bank and the First national bank that notes were rediscounted by the former for the latter upon the credit and indorsement of the latter bank; that the former demanded that the latter should maintain with it a deposit to its credit sufficient to cover its

liability upon the rediscounted notes as they severally matured, and that a credit balance satisfactory to the plaintiff was maintained with it by the First national bank; that the rediscounted notes were charged upon its books by the plaintiff bank to the First national bank as they matured, and then sent to the First national bank in order to allow it to collect from the makers and prior indorsers for its own benefit, the transaction was a simple lending and borrowing of money; and if the jury finds that the notes in suit were discounted by the plaintiff bank in accordance with such course of dealing, they will find for the defendant, unless they find that the First national bank received the proceeds of such discount, or that Allis was authorized by the First national bank to make the discount for it."

10.

"The jury are instructed that the business of a national bank is to lend money, not to borrow it; to discount the notes of others, not to get its own notes discounted. If, therefore, you find that the plaintiff discounted the notes in suit, believing that they had been sent to it by an officer of the defendant bank for the purpose of raising money for the bank, then the transaction was so much
83 out of the course of ordinary banking as to require the plaintiff to ascertain that the officer acting for the defendant bank had authority to raise the money on the notes for the bank; and if you find that the plaintiff discounted the notes without making inquiry as to the officer's authority, and further find that the officer sending the notes for discount had no special authority to raise money thereon, you must find for the defendant, unless you further find that the defendant bank received the proceeds of the notes."

11.

"The jury are instructed that the business of a bank is to lend, not to borrow, money; to discount the notes of others, not to get its own notes discounted. The fact, therefore, that the officers of a national bank make application to another national bank to discount or raise money upon notes is a circumstance which may be considered by them in connection with the other facts and circumstances to determine whether the plaintiff acquired the notes in due course of business."

12.

"If the jury finds that it is proved that H. G. Allis was in the habit of superintending the issuing of the defendant bank's paper, that would not justify the plaintiff in relying upon his having authority to issue the notes in suit, unless the evidence shows that the plaintiff knew that the defendant had previously acquiesced in such conduct on Allis' part."

13.

"If the jury finds that H. G. Allis was the payee or one of the payees in either of the notes in suit; that he indorsed the same in blank; that he then indorsed the name of the First national bank

immediately under his indorsement by himself as its president in such manner as to show it was done by him; that he himself transmitted said notes to the plaintiff bank in a letter signed by him as president and procured the plaintiff bank to discount said notes, your verdict should be for the defendant as to said notes, if you find that Allis made the endorsement of the bank's name for his personal benefit without authority from the bank, unless you further

84 find that the defendant bank ratified the action of Allis in discounting the notes."

14.

"If you find that Allis endorsed the name of the First national bank upon the notes in suit for his own benefit without authority from the First national bank, and that the plaintiff knew that fact, your verdict should be for the defendant.

The form of the notes in which Allis is payee and endorser was sufficient to carry notice to the plaintiff bank that he was using the First national bank's name for his personal benefit, if you find that these notes were delivered to the plaintiff bank for discount by Allis, although he professed to act as president of the First national bank and for its benefit in requesting the discount."

15.

"If you find that a part of the notes in suit were transmitted by Allis to the plaintiff with notes in which he was payee and last endorser, and that all said notes show that the name of the First national bank was endorsed thereon by Allis, you are at liberty to take those facts into consideration in determining whether the plaintiff knew that Allis was using the name of the First national bank for his benefit."

16.

"The jury are instructed that, however they may find the facts upon other issues, the receiver is entitled to recover of the plaintiff the amount of \$467.86, and they are directed to return a verdict for the receiver in that amount.

The court refused to give either of the prayers for instructions preferred by the defendant, but refused each of them separately, and, as each was refused, defendant at the time saved his separate exception to the court's action and order in refusing to give each of said prayers for instructions. Thereupon the court directed the jury to return a verdict for the plaintiff; to which action of the court the defendant at the time excepted.

Thereupon the jury, in obedience to the court's direction to that effect, thereafter given, returned the following verdict:

"We, the jury, in obedience to the court's direction, find the issues in favor of the U. S. Nat. Bank against Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Ark., and assess the plaintiff's damages at \$24,532.14.

85

GREEN TOMSUN, Foreman."

Before the judgment was rendered the defendant objected to any recovery against him for ordinary costs of suit, for the taxation of attorneys' fees, or for the costs incurred by the plaintiff in prosecuting its two several writs of error in this cause to the U. S. court of appeals for the 8th circuit; but the court overruled each of said objections and ruled that the plaintiff was entitled to recover its costs expended for each of the purposes aforesaid.

The defendant severally excepted to the court's ruling upon each of the questions aforesaid at the time they were made.

The defendant now, within the time prescribed by law and the rules of the court, presents to the court this its bill of exceptions, which is examined and allowed and ordered to be made a part of the record in this case.

In witness whereof I have hereunto set my hand, as judge of said court, this 19th day of June, 1897.

(Signed)

JOHN A. WILLIAMS, *Judge.*

Endorsed: Filed June 19, 1897. Ralph L. Goodrich, clerk.

Which assignment of errors is as follows:

U. S. NATIONAL BANK

vs.

STERLING R. COCKRILL, as Receiver of First National Bank of Little Rock.

The defendant makes the following assignment of errors, viz:

1st. The court erred in directing the jury to return a verdict for the plaintiff.

2nd. The court erred in admitting the notes sued on in evidence.

3rd. The court erred in refusing to give to the jury the first declaration of law asked for by the defendant, the same being in the following words, viz:

86 "This is an action by the United States National Bank of New York against the receiver of the First National Bank of Little Rock, Ark., upon five promissory notes for \$5,000 each, three of which were executed by the City Electric Street Railway Company, payable to the order of G. R. Brown and H. G. Allis, indorsed by both of them, and further indorsed, 'First national bank, Little Rock, Ark., H. G. Allis, Pt. or Ps.' Two were executed by McCarthy-Joyce Company, to the order of James Joyce, indorsed James Joyce, H. G. Allis; also indorsed, 'First national bank, Little Rock, Ark., H. G. Allis, Pt.,' all bearing date December 7th, 1892.

The defendant in its answer denies the liability of the First national bank, because he says that the notes sued on were never the property of the bank—never were upon the books of the bank; that they had never been discounted by the defendant bank; that their execution and discount by the plaintiff bank was a scheme or plan adopted by H. G. Allis to obtain money for his own use and benefit, and that the defendant bank never received any benefit whatever from the transaction."

4th. The court erred in refusing to give to the jury the second declaration of law asked for by the defendant, the same being in the following words, viz:

"These defenses would be an absolute bar to recovery by the plaintiff, and your verdict should be for the defendant, unless it shall appear that the plaintiff acted in good faith in the transaction and had notice, express or implied, of the fraudulent character of the transaction or want of power or authority in Allis to bind the bank by his indorsement, as president, and the procuring the discount of the notes by the plaintiff bank."

5th. The court erred in refusing to give to the jury the third declaration of law asked for by the defendant, the same being in the following words, viz:

"In determining whether Allis had authority to discount the notes for the bank you are instructed that the mere fact that he was president of the bank did not authorize him so to do. The president of a national bank has no authority by virtue of his office simply to bind the bank by indorsement of its name."

87 6th. The court erred in refusing to give to the jury the fourth declaration of law asked for by the defendant, the same being in the following words, viz:

"Before you find that he had implied authority, by reason of the acquiescence of the directors of the defendant bank, you must find that the directors knew that he exercised such authority, or that he had been permitted without their knowledge to rediscount notes through a series of transactions such as would amount to a custom to do so, or else that the directors had knowledge that Allis carried on or negligently permitted him to carry on such a course of dealing with the plaintiff bank as to induce it to believe that they had conferred the power upon him to indorse and discount notes."

7th. The court erred in refusing to give to the jury the — declaration of law asked for by the defendant, the same being in the following words, viz:

"If the plaintiff bank received and discounted these notes under circumstances which were so much out of the course of ordinary and legitimate banking business as to require it to see to it that the agent or officer claiming to act for the defendant bank had special authority so to act, you should find for defendant."

8th. The court erred in refusing to give to the jury the sixth declaration of law asked for by the defendant, the same being in the following words, viz:

"The borrowing of money by a national bank is so much out of the course of ordinary banking business as to require those making the loans to see to it that the officer or agent making the loan had special authority to borrow the money."

9th. The court erred in refusing to give to the jury the seventh declaration of law asked for by the defendant, the same being in the following words, viz:

"The jury are instructed that the president of a national bank has not authority to raise money by discounting the bank's notes without special authority from the board of directors.

If, therefore, you find that the notes in suit were discounted by H. G. Allis without special authority of the board of directors, you will find for the defendant, unless you further find from
88 the preponderance of the evidence that the defendant bank received the proceeds of the notes discounted."

10th. The court erred in refusing to give to the jury the eighth declaration of law asked for by the defendant, the same being in the following words, viz :

"Rediscounting paper actually owned by a bank is, to all intents and purposes, borrowing money by the bank obtaining the rediscount where the paper rediscounted is indorsed by the bank obtaining the rediscount in such a manner as to permit recourse upon the indorsing bank, as in this case."

11th. The court erred in refusing to give to the jury the ninth declaration of law asked for by the defendant, the same being in the following words, viz :

"If the jury finds that it was the course of dealing between the plaintiff bank and the First national bank that notes were rediscounted by the former for the latter upon the credit and indorsement of the latter bank ; that the former demanded that the latter should maintain with it a deposit to its credit sufficient to cover its liability upon the rediscounted notes as they severally matured, and that a credit balance satisfactory to the plaintiff was maintained with it by the First national bank ; that the rediscounted notes were charged upon its books by the plaintiff bank to the First national bank as they matured and then sent to the First national bank, in order to allow it to collect from the makers and prior indorsers for its own benefit, the transaction was a simple lending and borrowing of money ; and if the jury finds that the notes in suit were discounted by the plaintiff bank in accordance with such course of dealing, they will find for the defendant, unless they find that the First national bank received the proceedings of such discount or that Allis was authorized by the First national bank to make the discount for it."

12th. The court erred in refusing to give to the jury the tenth declaration of law asked for by the defendant, the same being in the following words, viz :

"The jury are instructed that the business of a national bank is to lend money, not to borrow it ; to discount the notes of
89 others, not to get its own notes discounted. If, therefore, you find that the plaintiff discounted the notes in suit, believing that they had been sent to it by an officer of the defendant bank, for the purpose of raising money for the bank, then the transaction was so much out of the course of ordinary banking as to require the plaintiff to ascertain that the officer acting for the bank had authority to raise the money on the notes for the bank ; and if you find that the plaintiff discounted the notes without making inquiry as to the officer's authority, and further find that the officer sending the notes for discount had no special authority to raise money thereon, you must find for the defendant, unless you further find that the defendant bank received the proceeds of the notes."

13th. The court erred in refusing to give to the jury the eleventh declaration of law asked for by the defendant, the same being in the following words, viz :

"The jury are instructed that the business of a bank is to lend, not to borrow, money ; to discount the notes of others, not to get its own notes discounted. The fact, therefore, that the officers of a national bank make application to another national bank to discount or raise money upon notes is a circumstance which may be considered by them, in connection with the other facts and circumstances, to determine whether the plaintiff acquired the notes in the due course of business."

14th. The court erred in refusing to give to the jury the twelfth declaration of law asked for by the defendant, the same being in the following words, viz :

"If the jury finds that it is proved that H. G. Allis was in the habit of superintending the issuing of the defendant bank's paper, that would not justify the plaintiff in relying upon his authority to issue the notes in suit, unless the evidence shows that the plaintiff knew that the defendant had previously acquiesced in such conduct on Allis' part."

15th. The court erred in refusing to give to the jury the thirteenth declaration of law asked for by the defendant, the same being in the following words, viz :

"If the jury finds that H. G. Allis was the payee, or one of the payees in either of the notes in suit ; that he endorsed the same in blank ; that he then endorsed the name of the First national bank immediately under his endorsement by himself as its president in such manner as to show it was done by him ; that he himself transmitted said notes to the plaintiff bank in a letter signed by him as president, and procured the plaintiff bank to discount said notes, your verdict should be for the defendant as to said notes, if you find that Allis made the endorsement of the bank's name for his personal benefit without authority from the bank, unless you further find that the defendant bank ratified the action of Allis in discounting the notes."

16th. The court erred in refusing to give to the jury the fourteenth declaration of law asked for by the defendant, the same being in the following words, viz :

"If you find that Allis endorsed the name of the First national bank upon the notes in suit for his own benefit, without authority from the First national bank, and that the plaintiff knew that fact, your verdict should be for the defendant."

The form of the notes in which Allis is payee and endorser was sufficient to carry notice to the plaintiff bank that he was using the First national bank's name for his personal benefit if you find that these notes were delivered to the plaintiff bank for discount by Allis, although he professed to act as president of the First national bank and for its benefit in requesting the discount."

17th. The court erred in refusing to give to the jury the fifteenth declaration of law asked for by the defendant, the same being in the following words, viz :

"If you find that a part of the notes in suit were transmitted by Allis to the plaintiff with notes in which he was payee and last endorser, and that all said notes show that the name of the First national bank was endorsed thereon by Allis, you are at liberty to take those facts into consideration in determining whether the plaintiff knew that Allis was using the name of the First national bank for his benefit."

18th. The court erred in refusing to give to the jury the sixteenth declaration of law asked for by the defendant, the same being in the following words, viz:

"The jury are instructed that, however they may find the facts upon other issues, the receiver is entitled to recover of the plaintiff the amount of \$167.86, and they are directed to return a verdict for the receiver in that amount."

19th. The court erred in rendering judgment for costs against the defendant.

20th. The court erred in rendering judgment for an attorney's fee against the defendant.

21st. The court erred in adjudging that defendant was liable for costs incurred by plaintiff in prosecuting two writs of error to the U. S. court of appeals.

Wherefore defendant prays that its assignment of errors be allowed and filed, and that a writ of error issue herein.

COCKRILL & COCKRILL,

Attorneys for Defendant.

Allowed.

— — —, *Judge.*

Which citation is as follows:

The United States of America to United States National Bank,
Greeting:

You are hereby cited and admonished to be and appear in the United States circuit court of appeals for the eighth circuit, at the city of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the western division of the eastern district of Arkansas, wherein Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Ark., is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the Honorable John A. Williams, judge of the circuit court of the United States for the eastern district of Arkansas, this 19th day of June, in the year of our Lord one thousand eight hundred and ninety-seven.

JNO. A. WILLIAMS,

*United States District Judge for the
Eastern District of Arkansas.*

Service acknowledged this 19th June, 1897.

RATCLIFFE & FLETCHER,

Att'ys for Plaintiff.

Endorsed : No. —. United States circuit court, western division of the eastern district of Arkansas. — vs. —. Citation. Filed 19 day of June, 1897. Ralph L. Goodrich, clerk.

UNITED STATES OF AMERICA,
Western Division of the Eastern District of Arkansas. }

I, Ralph L. Goodrich, clerk of the circuit court of the United States for the western division of the eastern district of Arkansas, in the eighth circuit, hereby certify that the foregoing writing and printed matter annexed to this certificate are true, correct, and compare-copies of the originals remaining of record in my office and constitute a true copy of the record and of the assignment of errors and of all proceedings in case United States National Bank vs. First National Bank of Little Rock and S. R. Cockrill, as receiver.

In witness whereof I have hereunto set my hand and the seal of said court this eighth day of July, in the year of our [SEAL.] Lord one thousand eight hundred and ninety-seven, and of the Independence of the United States of America the one hundred and twenty-second.

Attest:

RALPH L. GOODRICH, *Clerk.*

Filed Aug. 11, 1897.

JOHN D. JORDAN, *Clerk.*

93 And on the twenty-first day of August, A. D. 1897, an appearance of counsel for plaintiff in error was filed in the clerk's office of said circuit court of appeals in said cause in the words and figures following :

United States Circuit Court of Appeals, Eighth Circuit, May Term, 1897.

STERLING R. COCKRILL, Receiver, &c., Plaintiff in Error, }
vs. } No. 984.
UNITED STATES NATIONAL BANK.

The clerk will enter my appearance as counsel for the plaintiff in error.

S. R. COCKRILL.

Endorsed : U. S. circuit court of appeals, eighth circuit, May term, 1897. No. 984. Sterling R. Cockrill, receiver, &c., plaintiff in error, vs. United States National Bank. Appearance. Filed Aug. 21, 1897. John D. Jordan, clerk. S. R. Cockrill, Little Rock, Ark., counsel for pl'ff in error.

And on the twenty-first day of September, A. D. 1897, an appearance of counsel for defendant in error was filed in the clerk's office

of said circuit court of appeals in said cause in the words and figures following:

United States Circuit Court of Appeals, Eighth Circuit, May Term, 1897.

STERLING R. COCKRILL, as Receiver of the First National Bank of Little Rock, Arkansas, Plaintiff in Error,	} No. 984.
<i>vs.</i> UNITED STATES NATIONAL BANK.	

The clerk will enter *my* appearance as counsel for the defendant in error.

JOHN FLETCHER.
W. C. RATCLIFFE.

94 Endorsed: U. S. circuit court of appeals, eighth circuit, May term, 1897. No. 984. S. R. Cockrill, as rec'r, etc., pl'ff in error, *vs.* United States National Bank. Appearance. Filed Sep. 21, 1897. John D. Jordan, clerk. John Fletcher, W. C. Ratcliffe, counsel for def't in error.

And on the twenty-eighth day of August, A. D. 1897, a motion to certify questions to the Supreme Court of the United States was filed in the clerk's office of said circuit court of appeals in said cause in the words and figures following:

In the United States Circuit Court of Appeals for the Eighth Circuit.

STERLING R. COCKRILL, as Receiver of the First National Bank of Little Rock, Ark., Plaintiff in Error,	}
<i>vs.</i> U. S. NATIONAL BANK, Defendant in Error.	

The plaintiff in error moves the court to certify to the Supreme Court of the United States such facts as it may deem necessary to a proper understanding of this cause for the purpose of determining the following questions, to be certified to that court, to wit:

First. Whether H. G. Allis, as president of the First National Bank of Little Rock, Arkansas, had authority to raise money by discounting the bank's notes without special authority from the board of directors.

Second. Whether the following state of facts constituted a loaning of money within the meaning of *Armstrong vs. Western National Bank*, 152 U. S., 346:

The United States national bank demanded that the First national bank should maintain with it a deposit to its credit sufficient to cover its liability upon all rediscounted notes as they severally matured. A credit balance satisfactory to the United States national bank was maintained with it by the First national bank. The United States national bank required the First national bank to

endorse the notes before it would advance any money upon them.

As the rediscounted notes matured, they were charged upon
94½ the books of the United States national bank to the First
national bank, and then sent to the latter bank for collection
for its own benefit.

Third. Whether the following facts were sufficient to carry notice
to the United States national bank that H. G. Allis was using the
First national bank's name for his personal benefit, to wit:

H. G. Allis was payee in three of the notes in suit. The notes
bore his individual endorsement in blank. Then, immediately
under his individual endorsement, they bore the endorsement of
the First national bank, by Allis, as its president, in such a manner
as to show it was done by him. Allis transmitted the notes to the
United States national bank in a letter signed by him as president,
requesting the United States national bank to discount the notes for
the First national bank and place the proceeds to the credit of the
First national bank. As soon as he was apprised that the proceeds
of the notes had been placed to the credit of the First national bank,
he took credit upon the books of the First national bank for the

full amount of the proceeds and caused the United States
95 national bank's account to be charged in the same amount,
and thus received the entire benefit of the transaction. The
notes were Allis' individual property.

Respectfully,

S. R. COCKRILL &
ASHLEY COCKRILL,

Attorneys for the Plaintiff in Error.

Endorsed: 984. Sterling R. Cockrill, as receiver, &c., pl'ff in
error, vs. United States National Bank. Motion to certify questions
to Supreme Court. Filed Aug. 28, 1897. John D. Jordan, clerk.

And on the sixth day of September, A. D. 1897, in the record of
the proceedings of said circuit court of appeals is an order denying
motion to certify questions to the Supreme Court of the United
States in words and figures following, to wit:

United States Circuit Court of Appeals, Eighth Circuit, May Term,
1897.

MONDAY, September 6, 1897.

STERLING R. COCKRILL, as Receiver of the First National Bank of Little Rock, Ark., Plaintiff in Error,	} No. 984.
vs.	
UNITED STATES NATIONAL BANK.	

In error to the circuit court of the United States for the eastern
district of Arkansas.

This cause came on this day to be heard upon the motion filed by
counsel for plaintiff in error to certify certain questions arising
upon the record to the Supreme Court of the United States.

On consideration whereof it is now here ordered by this court
that said motion be, and the same is hereby, denied.

And on the thirteenth day of September, A. D. 1897, a stipulation for submission was filed in the clerk's office of said circuit court of appeals in said cause in the words and figures following, to wit:

96 In the United States Circuit Court of Appeals, Eighth Circuit.

STERLING R. COCKRILL, Receiver of the First National Bank of Little Rock, Arkansas, Plaintiff in Error,	}
vs.	
UNITED STATES NATIONAL BANK, Defendant in Error.	

Stipulation.

We agree that this cause may be submitted to the court upon the record recently filed herein without printing the same, upon the briefs filed in the same case on the former appeal.

S. R. COCKRILL,
ASHLEY COCKRILL,
For Plaintiff in Error.
W. C. RATCLIFFE,
JOHN FLETCHER,
For Defendant in Error.

Endorsed: No. 984. In United States circuit court of appeals for eighth circuit. Sterling R. Cockrill, rec., vs. United States National Bk. Stipulation for submission. Filed Sep. 13, 1897. John D. Jordan, clerk.

And on the fifteenth day of September, A. D. 1897, in the record of the proceedings of said circuit court of appeals is an order of submission in said cause in the words and figures following:

United States Circuit Court of Appeals, Eighth Circuit, May Term, 1897.

WEDNESDAY, September 15, 1897.

STERLING R. COCKRILL, as Receiver of the First National Bank, Plaintiff in Error,	}	No. 984.
vs.		
UNITED STATES NATIONAL BANK.		

97 In error to the circuit court of the United States for the eastern district of Arkansas.

This cause came on this day to be heard upon the stipulation filed by counsel for the respective parties for a submission of this cause without oral argument.

Thereupon this cause was submitted to Judges Sanborn, Thayer, and Riner upon the transcript of the record from said circuit court

and the briefs of counsel filed in the case of The United States National Bank, plaintiff in error, vs. The First National Bank *et al.*, No. 823, December term, 1896.

And on the fifteenth day of September, A. D. 1897, in the record of the proceedings of said circuit court of appeals is a judgment in said cause in the words and figures following, to wit:

United States Circuit Court of Appeals, Eighth Circuit, May Term, 1897.

WEDNESDAY, *September 15, 1897.*

STERLING R. COCKRILL, as Receiver of the First National Bank of Little Rock, Arkansas, Plaintiff in Error,	} No. 984.
vs.	
UNITED STATES NATIONAL BANK, Defendant in Error.	

In error to the circuit court of the United States for the eastern district of Arkansas.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the eastern district of Arkansas and was argued by counsel.

On consideration whereof it is now here ordered and adjudged by this court that the judgment of the said circuit court in this cause be, and the same is hereby, affirmed with costs, and that the United States National Bank have and recover against Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, the sum of twenty dollars for its costs herein, and have execution therefor.

September 15, 1897.

98 And on the twenty-seventh day of October, A. D. 1897, an assignment of errors was filed in the clerk's office of said circuit court of appeals in said cause in the words and figures following, to wit:

STERLING R. COCKRILL, as Receiver of the First National Bank of Little Rock, Arkansas, Plaintiff in Error,	}
vs.	
THE UNITED STATES NATIONAL BANK OF NEW YORK, Defendant in Error.	

Assignment of Errors.

The plaintiff in error, Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, makes the following assignment of errors in the above-entitled cause, to wit:

1. The circuit court of appeals erred in ruling that the trial court committed no error in directing a verdict in favor of the United States National Bank.

2. The said court erred in ruling that the following assignment of error, made by the plaintiff in error, was not well taken :

"This is an action by the United States National Bank of New York against the receiver of the First National Bank of Little Rock, Arkansas, upon five promissory notes for \$5,000.00 each, three of which were executed by the City Electric Street Railway Company, payable to the order of G. R. Brown and H. G. Allis, endorsed by both of them, and further endorsed 'First national bank, Little Rock, Ark., H. G. Allis, Pt. or Ps.' Two were executed by McCarthy-Joyce Company to the order of James Joyce, indorsed James Joyce, H. G. Allis; also endorsed 'First national bank, Little Rock, Ark., H. G. Allis, Pt.,' all bearing date December 7th, 1892.

The defendant in its answer denies the liability of the First national bank, because he says that the notes sued on were never the property of the bank, never were upon the books of the bank; that they had never been discounted by the defendant bank; that their execution and discount by the plaintiff bank was a scheme or plan adopted by H. G. Allis to obtain money for his own use and
99 benefit, and that the defendant bank never received any benefit whatever from the transaction."

3. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit :

"These defenses would be an absolute bar to recovery by the plaintiff, and your verdict should be for the defendant, unless it shall appear that the plaintiff acted in good faith in the transaction, and had no notice, express or implied, of the fraudulent character of the transaction or want of power or authority in Allis to bind the bank by his endorsement as president and the procuring the discount of the notes by the plaintiff bank."

4. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit :

"In determining whether Allis had authority to discount the notes for the bank, you are instructed that the mere fact that he was president of the bank did not authorize him so to do. The president of a national bank has no authority, by virtue of his office simply, to bind the bank by indorsements of its name."

5. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit :

"Before you find that he had implied authority, by reason of the acquiescence of the directors of the defendant bank, you must find that the directors knew that he exercised such authority, or that he had been permitted without their knowledge to rediscount notes through a series of transactions such as would amount to a custom to do so, or else that the directors had knowledge that Allis carried on or negligently permitted him to carry on such a course of dealing with the plaintiff bank as to induce it to believe that they had conferred the power upon him to indorse or discount notes."

6. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit :

"If the plaintiff bank received and discounted these notes under circumstances which were so much out of the course of ordinary

and legitimate banking business as to require it to see to it that the agent or officer claiming to act for the defendant bank had special authority so to act, you should find for defendant."

7. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"The borrowing of money by a national bank is so much out of the course of ordinary banking business as to require those making the loans to see to it that the officer or agent making the loans had special authority to borrow the money."

8. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"The jury are instructed that the president of a national bank has not authority to raise money by discounting the bank's notes without special authority from the board of directors."

9. "If, therefore, you find that the notes in suit were discounted by H. G. Allis without special authority of the board of directors you will find for the defendant, unless you further find from the preponderance of the evidence that the defendant bank received the proceeds of the notes discounted."

10. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"Rediscounting paper actually owned by a bank is to all intents and purposes borrowing money by the bank obtaining the rediscount, where the paper rediscounted is indorsed by the bank obtaining the rediscount in such a manner as to permit recourse upon the endorsing bank, as in this case."

11. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"If the jury finds that it was the course of dealing between the plaintiff bank and the First national bank that notes were rediscounted by the former for the latter upon the credit and endorsement of the latter bank; that the former demanded that the latter should maintain with it a deposit to its credit sufficient to cover its liability upon the rediscounted notes as they severally matured, and that a credit balance satisfactory to the plaintiff was maintained with it by the First national bank; that the redis-

101 counted notes were charged upon its books by the plaintiff bank to the First national bank as they matured and then sent to the First national bank in order to allow it to collect from the makers and prior endorsers for its own benefit, the transaction was a simple lending and borrowing of money; and if the jury finds that the notes in suit were discounted by the plaintiff bank in accordance with such course of dealing they will find for the defendant, unless they find that the First national bank received the proceeds of such discount or that Allis was authorized by the First national bank to make the discount for it."

12. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"The jury are instructed that the business of a national bank is to lend money, not to borrow it; to discount the notes of others, not

to get its own notes discounted. If, therefore, you find that the plaintiff discounted the notes in suit, believing that they had been sent to it by an officer of the defendant bank for the purpose of raising money for the bank, then the transaction was so much out of the course of ordinary banking as to require the plaintiff to ascertain that the officer acting for the defendant bank had authority to raise the money on the notes for the bank; and if you find that the plaintiff discounted the notes without making inquiry as to the officer's authority, and further find that the officer sending the notes for discount had no special authority to raise money thereon, you must find for the defendant, unless you further find that the defendant bank received the proceeds of the notes."

13. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"The jury are instructed that the business of a bank is to lend, not to borrow, money; to discount the notes of others, not to get its own notes discounted. The fact, therefore, that the officers of a national bank make application to another national bank to discount or raise money upon notes is a circumstance which may be considered by them in connection with the other facts and circumstances to determine whether the plaintiff acquired the notes in the due course of business."

102 14. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"If the jury finds that it is proved that H. G. Allis was in the habit of superintending the issuing of the defendant bank paper, that would not justify the plaintiff in relying upon his having authority to issue the notes in suit, unless the evidence shows that the plaintiff knew that the defendant had previously acquiesced in such conduct on Allis' part."

15. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"If the jury finds that H. G. Allis was the payee or one of the payees in either of the notes in suit; that he endorsed the same in blank; that he then endorsed the name of the First national bank immediately under his endorsement, by himself as its president, in such manner as to show it was done by him; that he himself transmitted said notes to the plaintiff bank in a letter signed by him as president, and procured the plaintiff bank to discount said notes, your verdict should be for the defendant as to said notes, if you find that Allis made the endorsement of the bank's name for his personal benefit without authority from the bank, unless you further find that the defendant bank ratified the action of Allis in discounting the notes."

16. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"If you find that Allis endorsed the name of the First national bank upon the notes in suit, for his own benefit, without authority from the First national bank, and that the plaintiff knew that fact, your verdict should be for the defendant."

17. The form of the notes in which Allis is payee and endorser was sufficient to carry notice to the plaintiff bank that he was using the First national bank's name for his personal benefit, if you find that these notes were delivered to the plaintiff bank for discount by Allis, although he professed to act as president of the First national bank and for its benefit in requesting the discount."

103 18. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"If you find that a part of the notes in suit were transmitted by Allis to the plaintiff with the notes in which he was payee and last endorser, and that all said notes show that the name of the First national bank was endorsed thereon by Allis, you are at liberty to take those facts into consideration in determining whether the plaintiff knew that Allis was using the name of the First national bank for his benefit."

19. The said court erred in ruling that the following assignment of error made by the plaintiff in error was not well taken, to wit:

"The jury are instructed that, however they may find the facts upon other issues, the receiver is entitled to recover of the plaintiff the amount of \$467.86, and they are directed to return a verdict for the receiver in that amount."

Wherefore said receiver prays that said judgment be reversed.

S. R. COCKRILL,

For Plaintiff in Error.

Endorsed: U. S. circuit court of appeals, eighth circuit, May term, 1897. No. 984. Sterling R. Cockrill, as receiver, &c., plaintiff in error, vs. United States National Bank of New York. Assignment of errors. Filed Oct. 27, 1897. John D. Jordan, clerk.

104

(Petition for Writ of Error.)

And on the twenty-third day of November, A. D. 1897, a petition for a writ of error was filed in the clerk's office of said circuit court of appeals in said cause in the words and figures following, to wit:

Supreme Court of the United States.

COCKRILL, as Receiver of the First National Bank of Little Rock, }
Arkansas, Plaintiff in Error, }

vs.

UNITED STATES NATIONAL BANK, Defendant in Error. }

Petition for writ of error.

Your petitioner represents that he is the receiver of the First National Bank of Little Rock, Arkansas, duly appointed by the Comptroller of the Currency of the United States in pursuance of the acts of Congress of the United States; that judgment was rendered against him in favor of the United States national bank for the sum of \$25,000, requiring him to pay said sum to said bank out of

the assets held by him by virtue of his appointment aforesaid; that under the direction of the comptroller aforesaid he caused said cause to be taken on writ of error to the United States circuit court of appeals for the 8th circuit, where said judgment was affirmed; that he is ag-grieved by said judgment, and is directed by the said comptroller to sue out a writ of error to review said judgment.

A record of said cause, duly certified by the clerk of said United States court of appeals, is presented herewith.

Wherefore said receiver prays that a writ in error issue herein to the United States circuit court of appeals.

STERLING R. COCKRILL,
Attorney for Receiver.

STATE OF ARKANSAS, }
County of Pulaski. }

I, S. R. Cockrill, state that the facts above set forth are true.

S. R. COCKRILL.

105 Subscribed and sworn to before me this 5th day of November, 1897.

[SEAL.]

THOS. J. DOYLE,
Notary Public.

My commission expires May 8th, 1898.

Endorsed: No. 984. Sterling R. Cockrill, as receiver, etc., plaintiff in error, vs. United States National Bank. Petition for writ of error. Filed Nov. 23, 1897. John D. Jordan, clerk.

(*Writ of Error.*)

And on the twenty-third day of November, A. D. 1897, an original writ of error was filed in the clerk's office of said circuit court of appeals in said cause, which is hereto attached and herewith returned:

106 UNITED STATES OF AMERICA, ss:

The President of the United States to the honorable the judges of the United States circuit court of appeals for the eighth circuit, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said United States circuit court of appeals, before you or some of you, between Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, plaintiff in error, and The United States National Bank of New York, defendant in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this

writ, so that you have the same in the said Supreme Court, at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Seal of the Supreme
Court of the United
States.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the tenth day of November, in the year of our Lord one thousand eight hundred and ninety-seven.

JAMES H. MCKENNEY,

Clerk of the Supreme Court of the United States.

Allowed by—

DAVID J. BREWER,

Associate Justice of the Supreme

Court of the United States.

[Endorsed:] No. 984. Sterling R. Cockrill, as receiver, etc., plaintiff in error, vs. United States National Bank. Writ of error. Filed Nov. 23, 1897. John D. Jordan, clerk.

Return to Writ.

UNITED STATES OF AMERICA, }
Eighth Circuit, } ss :

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States a duly certified transcript of the record and proceedings in the within-entitled case, with all things concerning the same.

Seal United States Circuit^s
Court of Appeals, Eighth
Circuit.

In witness whereof I hereto subscribe my name and affix the seal of said court, at office, in the city of St. Louis, Missouri, this twenty-seventh day of November, A. D. 1897.

JOHN D. JORDAN,

*Clerk of the United States Circuit Court of
Appeals for the Eighth Circuit.*

107

(Citation.)

And on the twenty-sixth day of November, A. D. 1897, a citation was filed in the clerk's office of said circuit court of appeals in said cause, the original of which, with the acceptance of service endorsed thereon, is hereto attached and herewith returned.

108 UNITED STATES OF AMERICA, ss :

To the United States National Bank of New York, Greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error filed in the clerk's

office of the United States circuit court of appeals for the eighth circuit, wherein Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable David J. Brewer, associate justice of the Supreme Court of the United States, this tenth day of November, in the year of our Lord one thousand eight hundred and ninety-seven.

DAVID J. BREWER,
Associate Justice of the Supreme Court of the United States.

[Endorsed:] No. 984. Sterling R. Cockrill, as receiver, etc., plaintiff in error, vs. United States National Bank. Citation. Filed Nov. 26, 1897. John D. Jordan, clerk.

The United States National Bank, defendant in error herein, hereby waives formal service of the within citation this 15th day of Nov., 1897.

W. C. RATCLIFFE,
JOHN FLETCHER,
Att'ys for United States National Bank, Defendant in Error.

109 United States Circuit Court of Appeals, Eighth Circuit.

I, John D. Jordan, clerk of the United States circuit court of appeals for the eighth circuit, do hereby certify that the foregoing one hundred and eight pages contain full, true, and complete copies all of the pleadings, proceedings, and record entries in the case of Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, plaintiff in error, vs. United States National Bank, defendant in error, No. 984, May term, 1897, as the same remain on file and of record in my office.

I do further certify that the original writ of error and the original citation are hereto attached and herewith returned.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals, at the city of St. Louis, Missouri, this twenty-seventh day of November, A. D. 1897.

JOHN D. JORDAN,
Clerk U. S. Circuit Court of Appeals, Eighth Circuit.

Endorsed on cover: Case No. 16,741. U. S. C. C. of appeals, 8th circuit. Term No., 206. Sterling R. Cockrill, as receiver of the First National Bank of Little Rock, Arkansas, plaintiff in error, vs. The United States National Bank of New York. Filed December 9, 1897.